

**SESSION LAWS**

OF

**HAWAII**

PASSED BY THE

**THIRTEENTH AND FOURTEENTH  
STATE LEGISLATURES**

**VOLUME 1**

---

**SPECIAL SESSION  
1986**

Convened on Thursday, July 24  
and  
Adjourned sine die on Wednesday, July 30

---

**REGULAR SESSION  
1987**

Convened on Wednesday, January 21  
and  
Adjourned sine die on Thursday, April 30

---

Published by Authority of the  
Revisor of Statutes  
Honolulu, Hawaii

## **AUTHORITY**

**Section 23G-13, Hawaii Revised Statutes, provides as follows:**

**Publishing of session laws.** As soon as possible after the close of each session of the legislature, the revisor of statutes shall prepare for publication all laws duly enacted at such session, arranged in the order of their becoming law, together with a suitable index and tables showing what general statutes have been affected by such session laws.

## PREFACE

This volume contains all the laws of the 1986 Special Session and the Regular Session of 1987 except for Acts 347, 348, and 349, relating to Insurance, which are contained in volume 2. The text of the laws as enacted is followed except for palpable clerical errors, which have been corrected; and the text is printed in full except for laws repealing existing statutes.

As authorized by HRS §23G-16.5, amendatory legislation contains brackets (designating matter deleted from statutes) or underscoring (designating new matter added). However, the text is edited to omit the bracketed matter for HRS sections repealed in their entirety and to delete the underscoring from new HRS sections.

Explanatory notes appear at the end of the corresponding laws. The notes clarify editorial changes and inconsistencies in text.

Samuel B. K. Chang  
Revisor of Statutes

Honolulu, Hawaii  
October 1, 1987

**STATE OF HAWAII**  
**ELECTED OFFICIALS AND LEGISLATIVE OFFICERS**

---

---

**UNITED STATES CONGRESS**

Senate:

Daniel K. Inouye  
Spark M. Matsunaga

House of Representatives:

Daniel K. Akaka  
Patricia (Pat) Saiki

---

---

**STATE EXECUTIVE OFFICERS**

Governor of Hawaii ..... John D. Waihee III  
Lieutenant Governor ..... Benjamin J. Cayetano

---

---

**OFFICERS AND MEMBERS OF THE  
FOURTEENTH STATE LEGISLATURE  
REGULAR SESSION  
1987**

**SENATE**

President ..... Richard S. H. Wong  
Vice President ..... Patsy K. Young  
Clerk ..... T. David Woo, Jr.

---

First District--(Hawaii)  
Richard Henderson (R)

Sixth District--(Oahu)  
Ron Menor (D)

Second District--(Hawaii)  
Richard M. Matsuura (D)

Seventh District--(Oahu)  
Gerald T. Hagino (D)

Third District--(Hawaii/Maui)  
Malama Solomon (D)

Eighth District--(Oahu)  
James (Jimmy) Wong<sup>1</sup> (D)

Fourth District--(Maui)  
Mamoru Yamasaki (D)

Ninth District--(Oahu)  
Clayton H. W. Hee (D)

Fifth District--(Maui/Molokai/Lanai)  
Rick Reed (R)

Tenth District--(Oahu)  
Mary George (R)

---

<sup>1</sup>Elected to the House; appointed to seat vacated by Charles T. Toguchi.

Eleventh District--(Oahu)  
Donna R. Ikeda<sup>2</sup>(R)

Twelfth District--(Oahu)  
Steve Cobb (D)

Thirteenth District--(Oahu)  
Bertrand Kobayashi (D)

Fourteenth District--(Oahu)  
Ann Kobayashi (R)

Fifteenth District--(Oahu)  
Mary-Jane McMurdo (D)

Sixteenth District--(Oahu)  
Russell Blair (D)

Seventeenth District--(Oahu)  
Anthony K. U. Chang (D)

Eighteenth District--(Oahu)  
Milton Holt (D)

Nineteenth District--(Oahu)  
Dennis M. Nakasato (D)

Twentieth District--(Oahu)  
Richard S. H. Wong (D)

Twenty-First District--(Oahu)  
Norman Mizuguchi (D)

Twenty-Second District--(Oahu)  
Joseph T. Kuroda (D)

Twenty-Third District--(Oahu)  
Patsy K. Young (D)

Twenty-Fourth District--(Oahu/Kauai)  
James Aki (D)

Twenty-Fifth District--(Kauai/Niihau)  
Lehua Fernandes Salling (D)

---

D — Democrats.....	20
R — Republicans.....	5

<sup>2</sup>Elected to the House; appointed to seat vacated by W. Buddy Soares.

## HOUSE OF REPRESENTATIVES

Speaker.....Daniel J. Kihano<sup>1</sup>  
 Vice Speaker.....Emilio S. Alcon  
 Clerk.....Gerald I. Miyoshi

---

First District--(Hawaii) Andrew Levin (D)	Fourteenth District--(Oahu) Joseph P. Leong (D)
Second District--(Hawaii) Harvey S. Tajiri (D)	Fifteenth District--(Oahu) Reb Bellinger (D)
Third District--(Hawaii) Wayne Metcalf (D)	Sixteenth District--(Oahu) Terrance W. H. Tom <sup>2</sup> (D)
Fourth District--(Hawaii) Dwight Y. Takamine (D)	Seventeenth District--(Oahu) Marshall K. Ige (D)
Fifth District--(Hawaii) Virginia Isbell (R)	Eighteenth District--(Oahu) Whitney T. Anderson (R)
Sixth District--(Hawaii/Maui) Mike O'Kieffe (R)	Nineteenth District--(Oahu) John Justin Medeiros (R)
Seventh District--(Maui) Mark J. Andrews (D)	Twentieth District--(Oahu) Cam Cavasso (R)
Eighth District--(Maui) Herbert J. Honda (D)	Twenty-First District--(Oahu) Patrick A. Ribellia <sup>3</sup> (R)
Ninth District--(Maui) Joseph M. Souki (D)	Twenty-Second District--(Oahu) Hal Jones (R)
Tenth District--(Maui/Molokai/Lanai) Bill Pfeil (R)	Twenty-Third District--(Oahu) Barbara Marumoto (R)
Eleventh District--(Oahu) Daniel J. Kihano (D)	Twenty-Fourth District--(Oahu) Fred Hemmings, Jr. (R)
Twelfth District--(Oahu) Samuel S. H. Lee (D)	Twenty-Fifth District--(Oahu) Calvin K. Y. Say (D)
Thirteenth District--(Oahu) Robert Bunda (D)	Twenty-Sixth District--(Oahu) Les Ihara, Jr. <sup>4</sup> (D)

<sup>1</sup>Filled the vacancy caused by the death of Speaker Richard A. Kawakami.

<sup>2</sup>Appointed to seat vacated by James (Jimmy) Wong.

<sup>3</sup>Appointed to seat vacated by Donna R. Ikeda.

<sup>4</sup>Appointed to seat vacated by Ken Kiyabu.

Twenty-Seventh District--(Oahu) Brian T. Taniguchi (D)	Fortieth District--(Oahu) Karen K. Horita (D)
Twenty-Eighth District--(Oahu) James T. Shon (D)	Forty-First District--(Oahu) Tom Okamura (D)
Twenty-Ninth District--(Oahu) David M. Hagino (D)	Forty-Second District--(Oahu) Clarice Y. Hashimoto (D)
Thirtieth District--(Oahu) Joan Hayes (D)	Forty-Third District--(Oahu) David Y. Ige (D)
Thirty-First District--(Oahu) Carol Fukunaga (D)	Forty-Fourth District--(Oahu) Eloise Yamashita Tungpalan (D)
Thirty-Second District--(Oahu) Mazie Hirono (D)	Forty-Fifth District--(Oahu) Mitsuo (Mits) Shito (D)
Thirty-Third District--(Oahu) Rod Tam (D)	Forty-Sixth District--(Oahu) Paul T. Oshiro (D)
Thirty-Fourth District--(Oahu) Michael Liu (R)	Forty-Seventh District--(Oahu) Mike Crozier (D)
Thirty-Fifth District--(Oahu) Kenneth T. Hiraki (D)	Forty-Eighth District--(Oahu) Henry Haalilio Peters (D)
Thirty-Sixth District--(Oahu) Dwight L. Yoshimura (D)	Forty-Ninth District--(Oahu/Kauai) Peter K. Apo (D)
Thirty-Seventh District--(Oahu) Dennis A. Arakaki (D)	Fiftieth District--(Kauai) Ezra R. Kanoho <sup>5</sup> (D)
Thirty-Eighth District--(Oahu) Emilio S. Alcon (D)	Fifty-First District--(Kauai/Niihau) Bertha C. Kawakami <sup>6</sup> (D)
Thirty-Ninth District--(Oahu) Romy M. Cachola (D)	

---

D — Democrats.....	40
R — Republicans.....	11

<sup>5</sup>Appointed to seat vacated by Alfred C. Lardizabal.

<sup>6</sup>Appointed to seat vacated by the death of Richard A. Kawakami.





# TABLE OF CONTENTS

	PAGE
List of Acts .....	x
Text of Acts, Special Session 1986.....	1
Text of Acts, Regular Session 1987.....	14
Proposed Constitutional Amendments .....	1210
Committee Reports of Measures Enacted and Vetoed.....	1214
Tables Showing Effect of Acts	
A. Sections of Hawaii Revised Statutes Affected .....	1227
B. Session Laws of Hawaii Affected.....	1235
C. Sections of Hawaiian Homes Commission Act of 1920 Affected .....	1235
D. Sections of State Constitution Affected .....	1235
General Index .....	1236

## LIST OF ACTS

### THIRTEENTH STATE LEGISLATURE SPECIAL SESSION 1986

ACT	BILL	SUBJECT	PAGE
1	S.B. S2-86	General fund expenditure ceiling.....	1
2	S.B. S1-86	Liability insurance; tort reform.....	3

### FOURTEENTH STATE LEGISLATURE REGULAR SESSION 1987

1	H.B. 1	Appropriations—legislative branch .....	14
2	S.B. 263	Legislators—expense allowance .....	15
3	S.B. 376	Kamakani Ikaika, Inc.—special purpose revenue bonds .....	16
4	S.B. 887	Public lands—resort facilities .....	16
5	H.B. 1494	Kahana Valley—long term residential leases .....	16
6	H.B. 312	Financial institutions—review of commissioner’s deci- sions .....	18
7	H.B. 314	General excise tax exemptions—prescription drugs; prosthetic devices .....	21
8	S.B. 318	Community development authority—cost allocations	24
9	S.B. 411	Black coral—state gem. ....	26
10	S.B. 596	Displaced persons—assistance.....	26
11	H.B. 878	Military justice—immunity of officers .....	28
12	H.B. 882	Sale of milk .....	28
13	H.B. 884	Hepatitis B screening program .....	29
14	H.B. 887	Mental health service area board—vacancies .....	29
15	H.B. 1324	General excise tax exemption—federal food supple- ments .....	30
16	H.B. 1520	University of Hawaii—property and expenditures ....	33
17	H.B. 883	Sale of poisons—permits and licenses.....	34
18	H.B. 1312	Special assistant for agriculture.....	34
19	S.B. 735	America’s cup—appropriation.....	35
20	H.B. 1759	Public service company tax exemption—cruise ships	36
21	H.B. 533	Fishing—bait; ponds.....	36
22	H.B. 754	Business fees—corporations; trademarks .....	37
23	H.B. 858	Autopsies .....	41
24	H.B. 1012	Rental housing revolving fund.....	42
25	H.B. 1053	Human services—basic needs allowance.....	42
26	H.B. 1340	Elderly abuse or neglect—sixty years of age .....	43
27	H.B. 190	Public employees health fund—benefits plan.....	44
28	H.B. 1477	Adjutant general—command .....	45
29	S.B. 58	Landlord tenant code—holdover tenancy .....	46
30	S.B. 311	Public employment—excluded managerial compensa- tion plan .....	47
31	S.B. 323	University of Hawaii—loyalty oath waivers.....	48
32	S.B. 983	Public employees health fund—group life insurance ..	49
33	S.B. 1442	Mopeds—intoxicating liquor violations .....	49
34	S.B. 1530	Correctional facilities—restricted access .....	53
35	S.B. 1704	Hawaii state guard .....	53
36	S.B. 1726	Hawaiian home lands—successors to lessees; funds ...	56
37	S.B. 1737	Budget and finance department—second deputy.....	60
38	S.B. 67	Torts—ad damnum clause .....	63
39	S.B. 81	General excise tax—obsolete exemptions.....	63
40	S.B. 82	Income tax credit—dangerous substances .....	72
41	S.B. 143	General income tax credit—1987 .....	72

ACT	BILL	SUBJECT	PAGE
42	S.B. 309	Occupational safety and health-reports .....	73
43	S.B. 140	General improvements act of 1986-technical amend- ment .....	74
44	S.B. 310	Boiler and elevator safety-reports.....	74
45	H.B. 35	Water code .....	74
46	S.B. 45	Married persons .....	102
47	S.B. 65	Family court-disclosures to victims .....	103
48	S.B. 66	Traffic summons or citation-failure to appear .....	103
49	S.B. 91	Fruit and nut orchards .....	104
50	S.B. 125	Torts-joint tortfeasors releases .....	104
51	S.B. 156	Salvaged motor vehicles-recertification .....	105
52	S.B. 258	Food-misbranding .....	106
53	S.B. 268	Corrections-transfer of offenders .....	108
54	S.B. 301	Retirement systems-withholdings .....	108
55	S.B. 303	Immunizations-school entry requirement .....	109
56	S.B. 304	State librarian-salary .....	109
57	S.B. 337	Private investigators and guards.....	110
58	S.B. 351	Animals-trespassing.....	113
59	S.B. 365	Physical therapy-athletic trainers .....	113
60	S.B. 366	Time sharing plans .....	114
61	S.B. 368	Credit sales-annual percentage rate.....	114
62	S.B. 370	Private activity bonds-allocation .....	115
63	S.B. 393	Veterinary medicine .....	117
64	S.B. 414	Housing-general excise tax exemption .....	119
65	S.B. 434	Commercial fishing-penalties .....	119
66	S.B. 435	Fishing gear-disposal.....	120
67	S.B. 442	Health care professionals.....	120
68	S.B. 447	Chiropractors .....	122
69	S.B. 448	Consumer protection-restitution .....	123
70	S.B. 449	Optometry.....	124
71	S.B. 450	Osteopathy .....	124
72	S.B. 451	Psychologists .....	125
73	S.B. 452	Dental hygienists .....	128
74	S.B. 469	Sale of computers-disclosure requirements .....	129
75	S.B. 521	Contractors-license hearings .....	130
76	S.B. 568	Medicine and surgery-disciplinary actions.....	130
77	S.B. 589	Derelict vehicles .....	131
78	S.B. 590	Motor vehicles-license plate disposals.....	132
79	S.B. 594	Housing projects-boundary changes .....	133
80	S.B. 597	Housing-county bonds .....	134
81	S.B. 611	Service connected occupational disability retirement .....	137
82	S.B. 778	Flora and fauna-protection .....	138
83	S.B. 784	Gambling offenses .....	140
84	S.B. 791	Appeals in criminal cases .....	141
85	S.B. 827	Extradition-costs .....	141
86	S.B. 882	Seed distribution revolving fund .....	142
87	S.B. 934	Facilitation of permit processing .....	142
88	S.B. 959	Public lands-long term lease withdrawals .....	145
89	S.B. 979	Public contracts-performance bonds .....	146
90	S.B. 980	Telecommunications revolving fund.....	147
91	S.B. 981	Agricultural parks.....	148
92	S.B. 982	Noxious weed control .....	149
93	S.B. 997	Fishing licenses .....	152
94	S.B. 999	Public employment-reemployment and recall lists ...	153
95	S.B. 1002	Real estate salesperson-license renewals .....	154

ACT	BILL	SUBJECT	PAGE
96	S.B. 1079	Industrial loan companies—capital requirement .....	154
97	S.B. 1098	Insurance—unfair practices and frauds .....	156
98	S.B. 1126	Marriage licenses—health information .....	157
99	S.B. 1151	Housing—buy back requirements .....	157
100	S.B. 1156	Births—legitimation .....	158
101	S.B. 1160	Concessions—bid requirement exemptions .....	160
102	S.B. 1277	Pest control operators—termite control contracts .....	161
103	S.B. 1286	Banks—loan and investment reports .....	162
104	S.B. 1287	Banks—employee loans .....	163
105	S.B. 1323	Limited equity housing cooperatives .....	164
106	S.B. 1342	Travel agencies .....	168
107	S.B. 1372	Employment security—employer's contribution rate .....	171
108	S.B. 1458	Elderly abuse or neglect—investigations .....	175
109	S.B. 1643	Zoning violations—civil penalties .....	175
110	S.B. 1708	Agriculture and aquaculture loan revolving fund .....	177
111	S.B. 1711	Agricultural parks .....	178
112	S.B. 1722	Tax refunds—intercept for money owed to State .....	180
113	S.B. 1733	Controlled substances—schedules; updating .....	180
114	S.B. 1738	Employees retirement system—investments .....	182
115	S.B. 1739	Employees retirement system—contributions .....	186
116	S.B. 1740	Employees retirement system—military service credit .....	187
117	S.B. 1741	Employees retirement system—clarifying amendments .....	188
118	S.B. 1742	Employees retirement system—reemployment .....	192
119	S.B. 1744	Employment security—special administration fund .....	193
120	S.B. 1745	Workers compensation—medical fee schedule .....	197
121	S.B. 1746	Workers compensation—volunteer enforcement officers .....	198
122	S.B. 1758	Planning and economic development—service fees .....	199
123	S.B. 1713	State surplus property revolving fund .....	199
124	H.B. 285	Condominiums—arbitration of disputes .....	200
125	H.B. 477	Landlord-tenant code—recovery of possession .....	201
126	H.B. 521	Boxing—medical suspension .....	201
127	H.B. 536	Victim restitution .....	202
128	H.B. 708	Prisoners—medical or psychological care .....	202
129	H.B. 922	Interstate compact on juveniles .....	203
130	H.B. 1002	Impersonation of law enforcement officer .....	204
131	H.B. 1233	Net fishing in Hilo Bay .....	205
132	H.B. 1327	Juvenile parole and community services programs .....	205
133	H.B. 1585	Condominiums—project documents .....	206
134	S.B. 1451	Nursing home without walls program—extension .....	207
135	H.B. 1935	Corporations—general amendments .....	210
136	S.B. 138	Expenditure ceiling—council on revenues .....	308
137	S.B. 216	Liquor establishments—sales practices .....	311
138	S.B. 316	Community development authority—revenue bonds .....	311
139	S.B. 800	Bail, recognizance, or supervised release .....	312
140	S.B. 856	Organized crime—penalty .....	316
141	S.B. 877	Liquor—importation .....	317
142	S.B. 909	Corrections—substance abuse treatment .....	318
143	S.B. 1001	Pest control operators .....	320
144	S.B. 1023	Liquor—federal licenses and stamps .....	322
145	S.B. 1095	Penal code—sanity examiners .....	322
146	S.B. 1163	Criminal justice data center—fees; board .....	324
147	S.B. 1224	Optometry—physician assistants .....	326
148	S.B. 1446	Mental health—confidentiality of records .....	327

ACT	BILL	SUBJECT	PAGE
149	S.B. 1673	Employees retirement system—class A membership ..	328
150	S.B. 1748	Boating—vessel registration fees .....	328
151	H.B. 81	Liens—motor vehicles .....	330
152	H.B. 489	Optometry .....	330
153	H.B. 497	Cemetery and funeral trusts .....	335
154	H.B. 520	Beauty culture .....	336
155	H.B. 528	Industrial loan companies—technical amendment ....	346
156	H.B. 534	Night hunting .....	347
157	H.B. 872	Asbestos contractors .....	347
158	H.B. 890	Mental health—patients' rights .....	349
159	H.B. 898	Hawaii housing authority—technical amendments ....	350
160	H.B. 892	Hunting licenses .....	351
161	H.B. 903	Child support—income assignment .....	352
162	H.B. 1158	Displaced persons—assistance .....	356
163	H.B. 1332	Airports—liens on aircraft .....	358
164	H.B. 1467	Hawaii seed law .....	360
165	H.B. 1486	Safe drinking water act—general amendments .....	365
166	H.B. 1529	Industrial loan companies .....	369
167	H.B. 1849	Pesticides—contamination control .....	371
168	S.B. 35	Foreign banks .....	372
169	S.B. 307	Job application processing fees .....	387
170	S.B. 419	Landlord and tenant—security deposit, rent .....	387
171	S.B. 162	Motor vehicle registration—out of State or county ....	388
172	S.B. 432	Public employees health fund—retirees .....	390
173	S.B. 526	Group life insurance—employer securities .....	391
174	S.B. 774	University of Hawaii—graduate scholarships .....	392
175	S.B. 785	Penal code—valuation of property .....	393
176	S.B. 797	Penal code—general amendments .....	394
177	S.B. 1053	Public contracts—bond waivers .....	397
178	S.B. 1288	Real estate funds—investments .....	398
179	S.B. 1357	Molokai irrigation and water utilization project .....	399
180	S.B. 1526	Insurance—risk retention groups .....	400
181	H.B. 3	Penal code—felony amendments .....	407
182	H.B. 208	Murder—waiver of family court jurisdiction .....	412
183	H.B. 230	Art in state buildings .....	413
184	H.B. 305	Collective bargaining—exclusion of legal counsel .....	413
185	H.B. 374	Environmental quality control—rulemaking .....	414
186	H.B. 378	Environmentally-related illness and injury .....	415
187	H.B. 379	Environmental impact statements .....	416
188	H.B. 413	Practice of pharmacy—definition .....	419
189	H.B. 463	Wilcox Memorial Hospital—special purpose revenue bonds .....	420
190	H.B. 492	Massage—general amendments .....	420
191	H.B. 518	Collection agencies and practices .....	423
192	H.B. 539	State tort liability act—exceptions .....	432
193	H.B. 681	Community health facilities .....	432
194	H.B. 771	Marriage, contract, spouse's right to .....	434
195	H.B. 1028	Environmental impact statements—acceptability .....	434
196	H.B. 1073	Pet care insurance .....	436
197	H.B. 1079	Paternity actions .....	436
198	H.B. 1102	Drug abuse and controlled substances commission ...	437
199	H.B. 1138	Dams and reservoirs .....	438
200	H.B. 1151	Kapiolani Health Care System—special purpose reve- nue bonds .....	440
201	H.B. 1173	Dog tags .....	441

ACT	BILL	SUBJECT	PAGE
202	H.B. 1256	Penal code—definitions of time .....	441
203	H.B. 1487	Controlled substances—schedule amendments .....	442
204	H.B. 1510	Child abuse .....	444
205	H.B. 1512	Taxable mortgage securities programs .....	449
206	H.B. 1931	Credit cards—rates and charges .....	453
207	H.B. 331	Intoxicating liquor—minors .....	454
208	H.B. 1521	Real estate—recovery fund; flood hazard or noise exposure.....	454
209	S.B. 1142	Elections—precinct officials.....	456
210	S.B. 1143	Elections—board of registration .....	458
211	S.B. 1146	Elections—write-in absentee ballots.....	458
212	S.B. 1172	Traffic congestion—alleviation .....	458
213	S.B. 1702	Civil service exemptions—lieutenant governor's office .....	460
214	H.B. 1469	Claims against the State .....	464
215	S.B. 1735	Claims against the State .....	469
216	H.B. 2	State budget—general appropriations.....	475
217	S.B. 1660	General improvements act of 1987.....	651
218	H.B. 287	Office of Hawaiian affairs—budget .....	718
219	S.B. 141	General obligation bonds—authorization .....	720
220	H.B. 328	Appropriations—collective bargaining cost items .....	725
221	H.B. 418	Appropriations—employees excluded from collective bargaining .....	726
222	H.B. 1590	Motor vehicle inspections.....	728
223	S.B. 1024	Liquor license—violations; transfers .....	729
224	H.B. 706	Minimum wage .....	732
225	S.B. 1000	Public employment—pay equity adjustments .....	733
226	S.B. 1158	Public defender—salary .....	734
227	S.B. 1443	Indigents—counsel fees .....	735
228	S.B. 317	Community development authority—revenue bonds .....	736
229	S.B. 379	Public contracts—bid requirements.....	736
230	S.B. 436	Hunting—technical amendments .....	737
231	S.B. 565	Medical malpractice insurance .....	739
232	S.B. 1145	Elections—ballots.....	739
233	H.B. 377	Environmental council .....	741
234	H.B. 464	Smoking—prohibition in public places .....	741
235	H.B. 581	Narcotics enforcement office—transfer .....	745
236	H.B. 652	Used oil—recycling and disposal .....	745
237	H.B. 741	School bus safety.....	748
238	H.B. 889	Sexually transmitted diseases—confidentiality of records.....	749
239	S.B. 320	Tax reform—income tax adjustments; conformance to Internal Revenue Code; general excise tax amendments; capital goods .....	750
240	H.B. 444	Employment security—wage base adjustment .....	778
241	H.B. 1500	New industry training program .....	779
242	S.B. 1154	Innovation development program .....	781
243	H.B. 1502	Capital loan program .....	782
244	H.B. 1227	Space technology industry feasibility study .....	783
245	S.B. 350	Smoking—prohibition in workplace .....	785
246	S.B. 444	Barbers .....	787
247	S.B. 456	Boats and vessels—thrill craft .....	791
248	S.B. 492	Tax increment financing—high technology and telecommunications .....	793
249	S.B. 522	Banks—insolvency or liquidation .....	795
250	S.B. 525	Insurance—premium waiver.....	797

ACT	BILL	SUBJECT	PAGE
251	S.B. 533	Corrections--offender family service center .....	797
252	S.B. 539	Liquor license fees .....	799
253	S.B. 545	Long-term care insurance .....	800
254	S.B. 619	Private cesspool pumping firms .....	804
255	S.B. 632	Insurance investments--Guam, Marianas, Microne- sia, and Marshall Islands .....	805
256	S.B. 727	Liquor license--noise control .....	806
257	S.B. 787	Assaults on educational workers .....	806
258	S.B. 808	Motor vehicle insurance fund--study .....	807
259	S.B. 833	Insurance discrimination--AIDS or HIV victim .....	808
260	S.B. 847	Firearm offenses--mandatory sentences .....	814
261	S.B. 956	Consumer commodities .....	815
262	S.B. 957	Home detention--parole alternative .....	816
263	S.B. 968	Honolii stream hydro project--special purpose reve- nue bonds .....	817
264	S.B. 993	Blood disease--reports .....	818
265	S.B. 994	Communicable diseases--reporting; AIDS research ...	818
266	S.B. 1749	Traffic violations--seat belt exemptions .....	820
267	H.B. 5	Whistleblowers protection act .....	820
268	H.B. 62	Telecommunications or cable TV services--fraud .....	823
269	H.B. 391	Condominiums--parking stalls .....	825
270	H.B. 1025	Health care--development; cost control .....	825
271	H.B. 1156	State fire council .....	833
272	H.B. 1244	Motor vehicle repairs--crash parts .....	834
273	H.B. 1270	Elections--voter registration .....	835
274	H.B. 1525	Restraints of trade--actions .....	837
275	H.B. 1530	Real property mortgages--liens and insurance .....	840
276	H.B. 1861	Condominiums--hotel use .....	841
277	S.B. 24	Condominiums--bylaws .....	843
278	S.B. 97	Names--adopted persons .....	848
279	S.B. 241	Motor vehicles--liability .....	848
280	S.B. 341	Banks--check hold policies .....	849
281	S.B. 389	Naturopathy .....	850
282	S.B. 420	Landlord and tenant--security deposit; return .....	852
283	S.B. 431	Statute revision--technical amendments .....	853
284	S.B. 1201	Monetary laundering .....	887
285	S.B. 1278	Psychologists--licensure .....	888
286	S.B. 1284	Credit life insurance--debtor ceiling .....	888
287	S.B. 1395	No fault insurance--motorcycles and motor scooters	890
288	S.B. 1399	Public works--overtime pay .....	891
289	S.B. 1431	State coordinating council on deafness .....	893
290	S.B. 1435	Public assistance--psychological services .....	894
291	S.B. 1500	Employees retirement system--actuarial valuations...	896
292	S.B. 1627	General excise tax--interstate or foreign transporta- tion .....	896
293	H.B. 46	Tobacco sales--age requirement .....	900
294	H.B. 105	Discrimination in public accommodations .....	901
295	H.B. 132	Public employment--residence .....	901
296	H.B. 210	Criminal injuries compensation--appropriations .....	903
297	H.B. 375	Water contaminants--interim controls .....	915
298	H.B. 408	Condominiums--conflict of interest .....	917
299	H.B. 453	Retirement system--firefighters; beneficiary's option	921
300	H.B. 498	Opticians--general amendments .....	922
301	H.B. 516	Cable television systems--general amendments .....	926
302	H.B. 541	Navigable streams--private use .....	938

ACT	BILL	SUBJECT	PAGE
303	H.B. 574	Conveyances—subdivision description, map .....	938
304	H.B. 578	Island Power Company—special purpose revenue bonds .....	939
305	S.B. 255	Child support .....	940
306	S.B. 398	Irrigation water development .....	941
307	S.B. 548	Kuleana lands—escheat .....	961
308	S.B. 1007	Immunodeficiency virus (HIV) testing .....	962
309	S.B. 1072	Hospital administrators—leaves .....	963
310	S.B. 1164	Pesticides—regulation .....	964
311	H.B. 307	Collective bargaining—excluded personnel .....	976
312	H.B. 586	University of Hawaii—algal mass culture revolving fund .....	977
313	H.B. 592	Hawaii housing projects—rental assistance subsidies .....	978
314	H.B. 904	Family court—custody orders .....	979
315	H.B. 920	Family court—domestic abuse protective orders .....	981
316	H.B. 921	Family court—status offender .....	983
317	H.B. 999	Motor vehicles—emblems or tags .....	984
318	H.B. 1174	Drivers licenses—renewals .....	984
319	H.B. 1176	Motor vehicles—dealer license plates .....	985
320	H.B. 1246	Insurance—unfair practices and acts .....	986
321	H.B. 1251	Uniform premarital agreement act .....	992
322	H.B. 1252	Criminal records—expungement orders .....	994
323	H.B. 1331	Child support—interest accounts .....	996
324	H.B. 1519	Boats and vessels—fees .....	996
325	H.B. 1583	Helicopter facilities—environmental impact statements .....	997
326	H.B. 1688	Aircraft—liability of owners .....	998
327	H.B. 1710	Small estates—guardianship .....	998
328	H.B. 1795	Housing bonds .....	999
329	H.B. 1796	Hawaii housing authority—general amendments .....	999
330	H.B. 1889	Historic preservation—archaeological activities .....	1005
331	S.B. 815	Health insurance—proposed mandatory coverage assessment report .....	1006
332	S.B. 1112	Health insurance—in vitro fertilization .....	1008
333	S.B. 1729	County licensing—premises .....	1009
334	S.B. 1734	Adult foster homes—regulation .....	1014
335	S.B. 1765	Parks—transfer between State and counties .....	1017
336	S.B. 1747	State planning; business and economic development department—reorganization .....	1018
337	S.B. 1318	Housing finance and development corporation .....	1035
338	S.B. 5	Corrections department .....	1096
339	S.B. 1751	Human services department—establishment .....	1114
340	H.B. 1738	Mentally ill—employment program .....	1118
341	H.B. 598	Development disabilities or mental retardation services .....	1119
342	H.B. 1150	Children—emotional and developmental multi-system .....	1127
343	S.B. 515	Child abuse and neglect—appropriation .....	1128
344	H.B. 1514	Public assistance—shelter allowance .....	1129
345	H.B. 26	Voluntary workfare program .....	1132
346	H.B. 14	Sugar and alternate crops—appropriations .....	1141
347	H.B. 410	Insurance code .....	1141
348	S.B. 361	Insurance code .....	1141
349	S.B. 1525	Insurance code .....	1141
350	H.B. 654	Natural area reserves—general amendments .....	1142
351	H.B. 735	Natural area reserves—fund .....	1144



ACT	BILL	SUBJECT	PAGE
352	S.B. 1295	Guangdong Providence special exchange program ...	1145
353	S.B. 1274	Ocean resources tourism development task force .....	1146
354	S.B. 776	Housing-projects for elderly .....	1147
355	H.B. 310	Community development authority-general amend- ments .....	1150
356	H.B. 1000	Promoting dangerous drugs .....	1152
357	H.B. 223	Film industry-permits .....	1153
358	H.B. 251	Transcription of instructional materials-handi- capped students .....	1153
359	H.B. 849	Domestic abuse protective orders .....	1154
360	H.B. 853	Abuse of family or household member-expungement of records .....	1155
361	H.B. 1209	Environmental protection-unlawful discharges .....	1157
362	H.B. 428	Milolii-Hoopuloa-long term leases .....	1159
363	H.B. 430	Handicapped persons-flotation swimming devices...	1160
364	H.B. 1041	Conservation and enforcement officers-shore water safety powers .....	1161
365	H.B. 486	Discrimination-real estate transactions .....	1163
366	H.B. 121	Jurors .....	1164
367	S.B. 242	Water leases .....	1169
368	S.B. 471	State-owned cemeteries .....	1171
369	S.B. 769	Campaign spending .....	1173
370	S.B. 830	Discrimination in real property-AIDS victim .....	1184
371	S.B. 1083	Civil service exemptions-housing assistance posi- tions .....	1185
372	S.B. 1518	Geothermal resource subzones-direct use applica- tions .....	1186
373	H.B. 1536	Commissioner of securities .....	1188
374	H.B. 220	Workers compensation-psychologist .....	1189
375	H.B. 49	Judiciary budget .....	1189
376	S.B. 1424	Family court-appointed counsel and guardians ad li- tem .....	1195
377	H.B. 445	Labor and industrial relations-dislocated workers ...	1196
378	H.B. 1357	Geothermal resources-contested cases .....	1198
379	H.B. 1841	Civil service exemption-land and natural resources second deputy .....	1203
380	S.B. 154	Fingerprint identification system .....	1206
381	H.B. 42	Workers compensation conference-appropriation ...	1207
382	H.B. 750	Honolulu symphony endowment fund .....	1207
383	H.B. 1421	Kalakaua Avenue safety and beautification-appro- priation .....	1208
384	H.B. 1924	Richards Street YMCA-appropriation .....	1208
	H.B. 572	Proposed constitutional amendment-legislature- election of members .....	1210
	H.B. 1267	Proposed constitutional amendment-voting age qualification .....	1211
	S.B. 107	Proposed constitutional amendment-jury trials .....	1212
	S.B. 1139	Proposed constitutional amendment-voting; resi- dency requirement .....	1213



**Session Laws of Hawaii  
Passed By The  
Thirteenth State Legislature  
Special Session  
1986**

**ACT 1**

S.B. NO. S2-86

A Bill for an Act Relating to the General Fund Expenditure Ceiling.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 37, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

**“PART V. GENERAL FUND EXPENDITURE CEILING**

**§37-91 Definitions.** As used in sections 37-92 to 37-94:

“Expenditure ceiling” means the maximum general fund appropriations allowed in any year. The expenditure ceiling shall be determined by considering the fiscal year 1978-79 general fund appropriations as the expenditure ceiling. The expenditure ceiling for succeeding fiscal years shall be computed by adjusting the immediate prior fiscal year expenditure ceiling by the applicable state growth. When revisions are made to the total state personal income, the expenditure ceiling shall be recalculated on the basis of the latest available data, going back to fiscal year 1978-1979.

“General fund” means the fund used to account for all transactions which are not accounted for in another fund, but excluding federal funds received by that fund.

“State growth” means the estimated rate of growth of the State’s economy and shall be established by averaging the annual percentage change in total state personal income for the three calendar years immediately preceding the session of the legislature making appropriations from the state general fund. When revisions are made to total state personal income, state growth shall be recalculated on the basis of the latest available data.

“Total state personal income” means the total state personal income as defined by the state personal income series published by the United States Department of Commerce, Social and Economic Statistics Administration, Bureau of Economic Analysis, or its successor, for each year for which such income has been determined and published, including all revisions to the series. For the current and next succeeding calendar year for which such income has not been determined or published, it shall mean the total state personal income for such year as estimated by the council on revenues.

**§37-92 Proposed general fund appropriations; executive branch; judicial branch.** (a) The governor shall submit a plan of proposed appropriations for the State to the legislature which shall accompany the state budget in odd-numbered years and the supplemental budget in even-numbered years. The plan of proposed appropriations shall include the executive budget, proposed grants to private entities, and any specific appropriation measures to be proposed by the executive branch and estimates of the aggregate proposed appropriations of the judicial and legislative branches of government. In any year in which the plan of proposed appropriations from the general fund exceeds the expenditure ceiling, the governor shall set forth the dollar amount, the rate by which the expenditure ceiling would be exceeded,

## ACT 1

and the reasons for proposing appropriations in excess of those allowed under the expenditure ceiling.

(b) The proposed appropriations from the general fund for each year of the biennium or each supplementary budget fiscal year for the executive and judicial branches shall not be increased over the appropriations from the general fund for the preceding fiscal year for each branch, respectively, by more than the state growth, except as provided in this section. For purposes of this subsection, the appropriations from the general fund for the executive and judicial branches shall not include any appropriations representing amounts authorized by the legislature under section 37-93(b).

(c) The governor shall submit a plan of proposed appropriations for the executive branch to the legislature which shall accompany the state budget in odd-numbered years and the supplemental budget in even-numbered years. The plan of proposed appropriations shall include the executive budget, proposed grants to private entities, and any specific appropriation measures to be proposed by the executive branch.

(d) The budget documents presented by the governor to the legislature shall include a statement or summary showing (1) the total state personal income for each of the four calendar years immediately preceding the session of the legislature making appropriations from the state general fund, (2) the appropriations from the general fund for the previous fiscal year, (3) the appropriations from the general fund for the fiscal year in progress, and (4) the general fund expenditure ceiling for the ensuing fiscal year and for the fiscal year in progress.

(e) The governor shall also include a statement or summary showing (1) recommended appropriations from the general fund for the executive branch for the ensuing fiscal year, (2) actual appropriations from the general fund for the executive branch plus any recommended appropriations from the general fund for the executive branch for the fiscal year in progress, (3) the appropriations from the general fund for the executive branch for the previous fiscal year, and (4) the general fund appropriation ceiling for the executive branch as established by subsection (b) for the ensuing fiscal year and for the fiscal year in progress.

(f) The chief justice shall submit a plan of proposed appropriations of the judicial branch to the legislature which shall accompany the judiciary biennial budget in odd-numbered years and the supplemental budget in even-numbered years. The plan of proposed appropriations shall include the judiciary budget, proposed grants to private entities, and any specific appropriation measures to be proposed by the judicial branch.

(g) The budget documents presented by the chief justice to the legislature shall include a statement or summary showing (1) recommended appropriations from the general fund for the judicial branch for the ensuing fiscal year, (2) actual appropriations from the general fund for the judicial branch plus any recommended appropriations from the general fund for the judicial branch for the fiscal year in progress, (3) the appropriations from the general fund for the judicial branch for the previous fiscal year, and (4) the general fund appropriation ceiling for the judicial branch as established by subsection (b) for the ensuing fiscal year and for the fiscal year in progress.

(h) The governor or the chief justice may propose appropriations from the general fund for the executive or judicial branches, respectively, in excess of those allowed by subsection (b) if the governor or the chief justice sets forth the dollar amount and the percentage change in excess of the appropriations allowed by subsection (b), and the reasons for proposing appropriations in excess of those allowed by subsection (b).

**§37-93 Legislature.** (a) The legislature shall not make appropriations from the general fund for each fiscal year of the biennium or each supplementary budget fiscal year which will exceed the expenditure ceiling for that fiscal year.

(b) The legislature may make appropriations from the general fund in excess of those allowed by subsection (a) by:

- (1) A two-thirds vote of the members to which each house of the legislature is entitled;
- (2) Setting forth the dollar amount and the rate by which the appropriations allowed by the change in the state growth will be exceeded; and
- (3) Setting forth the reasons for exceeding the appropriations allowed by the percentage change in the state growth;

in each act which will cause appropriations from the state general fund to exceed those allowed by the change in state growth.

(c) When revisions in the state personal income series made by the United States Department of Commerce, Social and Economic Statistics Administration, Bureau of Economic Analysis, or its successor, result in the recalculation of expenditure ceilings which then are found to be less than appropriation levels, the excess appropriations shall not be deemed invalid and shall remain as authorized in their respective legislative sessions.

**§37-94 Director of finance; duties.** A preliminary estimate of the state growth and expenditure ceiling shall be determined by the director of finance as of August 1 of each year. The final estimate of the state growth and expenditure ceiling to be used by the legislature to make appropriations from the general fund in each year shall be determined by the director of finance as of November 1 of each year. Upon the determination of both the preliminary estimate and the final estimate of the state growth and expenditure ceiling, the director shall inform the governor, chief justice and the legislature and shall give public notice of such state growth and expenditure ceiling and the maximum dollar amount that may be appropriated from the general fund by publication twice in successive weeks in a newspaper of general circulation in the State."

SECTION 2. This Act shall take effect on July 1, 1986, and shall be repealed as of June 30, 1987.

(Approved July 30, 1986.)

## ACT 2

S.B. NO. S1-86

A Bill for an Act Relating to Liability.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Legislative findings and purpose.** The legislature finds and declares that a solution to the current crisis in liability insurance has created an overpowering public necessity for a comprehensive combination of reforms to both the tort system and the insurance regulatory system. It is the intent of this Act to alleviate the seriousness of the current insurance crisis and to prevent the reoccurrence of such a crisis. The purpose of this Act is to ensure the widest possible availability of liability insurance at reasonable rates, to ensure a stable market for liability insurers, and to provide for means to adjust insurance premium rates in the context of

## ACT 2

anticipated cost savings from tort reform legislation affecting the affordability and availability of liability insurance.

**SECTION 2. Definitions.** As used in sections 3 to 7 of this Act, unless the context otherwise requires:

1. "Authorized insurer" means insurers licensed to do business in the State.
2. "Commercial liability insurance" means insurance written for businesses providing protection for an insured against loss arising from injuries to other persons or damage to their property. It includes but is not limited to policies providing coverage for errors and omissions, and professional malpractice.
3. "Rebate" means an amount refunded to a policyholder by an insurer to reflect a return of excess premiums with interest.
4. "Surcharge" means an amount assessed by an insurer against a policyholder over and above manual rates.

**SECTION 3. Rate reduction; relief.** (a) The insurance commissioner shall effect a moratorium and not approve any rate level increase in commercial liability insurance during the period August 1, 1986 to September 30, 1986. Commencing October 1, 1986, all authorized insurers transacting commercial liability insurance in this State shall implement a ten per cent rate reduction from the rates currently on file with the insurance commissioner for all policies containing commercial liability coverage, except motor vehicle and medical malpractice policies, in effect on September 30, 1986, for each new and renewal policy and provide that the new rates will be in effect and filed during the period October 1, 1986 to September 30, 1987. There shall be no exception to the requirements of this subsection, unless the commissioner, pursuant to an insurer's petition, shall find that the use of the rates required herein by an insurer will be inadequate to the extent that such rates jeopardize the solvency of the insurer required to use such rates.

(b) Commencing on October 1, 1987, all authorized insurers providing commercial liability insurance in this State shall implement a twelve per cent rate reduction for all policies containing commercial liability coverage, except motor vehicle policies, from the rates in effect on September 30, 1987, for each new and renewal policy, and provide that the new rates will be in effect and filed during the period October 1, 1987 to September 30, 1988.

(c) Commencing on October 1, 1988, all authorized insurers providing commercial liability insurance in this State shall implement a fifteen per cent rate reduction for all policies containing commercial liability coverage, except motor vehicle policies, from the rates in effect on September 30, 1988, for each new and renewal policy, and provide that the new rates will be in effect and filed during the period October 1, 1988 to September 30, 1989.

(d) Except as otherwise provided in this Act, all rates for commercial liability insurance shall comply with the provisions of the casualty rating law contained in chapter 431, Hawaii Revised Statutes. Any insurer which contends that the rate provided for in subsection (b) or (c) is inadequate shall state in its filing the rate it contends is appropriate and shall state with specificity the factors or data which it contends should be considered in order to produce such appropriate rate. The insurer shall be permitted to use all of the generally accepted actuarial techniques in making any filing pursuant to this subsection. It shall be the insurer's or rating organization's burden to actuarially justify any rate increase from the reduced rates provided for in subsection (b) or (c). The insurer or rating organization shall include in the filing the expected impact of the tort reform implemented by

Sections 11 to 22 of this Act on losses, expenses and rates. In making this filing as provided for by this subsection, the insurer or rating organization shall comply with the following provisions:

- (1) Any rate filing contending that the rates established in subsections (b) or (c) is inadequate shall be filed ninety days prior to October 1, 1987 or October 1, 1988.
- (2) The insurance commissioner shall review and approve or disapprove the rate filing thirty days prior to October 1, 1987 or with respect to filings submitted pursuant to subsection (c) thirty days prior to October 1, 1988. A filing shall be deemed to meet the requirements of the casualty rating law unless disapproved by the commissioner within the 60-day waiting period. All filings submitted under this Act shall be deemed public records.
- (3) In the event the filing is approved under subsection (d)(2), a contested case hearing in accordance with the provisions of chapter 91, Hawaii Revised Statutes, may be convened. Notwithstanding the provisions of section 431-61, Hawaii Revised Statutes, a petition and demand for hearing shall not stay the implementation of the rate approved by the commissioner or the rates in effect as of September 30, 1986, whichever is higher. A final order of the commissioner may be appealed in accordance with the provisions of section 431-69, Hawaii Revised Statutes.
- (4) In the event a filing is disapproved in whole or in part, a petition and demand for a contested case hearing may be filed in accordance with chapter 91, Hawaii Revised Statutes. The insurer or rating organization shall have the burden of proving that the disapproval is not justified. While the action of the commissioner in disapproving the rate filing is being challenged, the aggrieved insurer shall be entitled to charge the rates established as of September 30, 1986 or the filed rates, whichever is lower.
- (5) With respect to any approval or disapproval by the commissioner regarding any rate filing focusing upon the October 1, 1988 reduction, the aggrieved insurer shall be entitled to charge the rates established as of September 30, 1988 while the action of the commissioner is being challenged and contested.
- (6) Upon final disposition, pursuant to chapter 91, Hawaii Revised Statutes, or by a court of competent jurisdiction of the insurance commissioner's approval or disapproval of the rates, the insurance commissioner shall immediately determine and order that the insurer make the appropriate rebates of premiums to policyholders or allow the insurer to exact a surcharge on premiums.
- (e) The insurance commissioner shall publish a notice of every filing submitted by insurers pursuant to this section in a newspaper of general circulation in the State.

**SECTION 4. Excessive rates; rebate or credit.** In reviewing the information gathered from the closed case reports provided for under Section 26 of this Act, and from any other relevant information, if there is reason to believe that the rates are excessive, the insurance commissioner shall request a hearing to determine the adequate rate. If as a result of the hearing it is determined that insurers are charging excessive rates, the insurance commissioner shall issue an order specifying that a new rate or schedule be filed by the insurer or rating organization which responds to the findings made through the hearing. The insurance commissioner shall further order that premiums charged each policyholder constituting the portion of the rate

## ACT 2

above that which is actuarially justified be returned to such policyholder in the form of a rebate or credit.

**SECTION 5. Cancellation of policy; prohibition.** No policies to which the reductions on insurance rate apply shall be canceled by the insurer prior to the expiration of the agreed term or one year from the effective date of the policy or renewal, whichever is less, except under the following grounds:

- (1) Failure to pay a premium when due;
- (2) Fraud or material misrepresentation;
- (3) Risk hazard increases substantially and the insurer could not have reasonably foreseen the change when entering into the contract;
- (4) Substantial breaches of contractual duties, conditions, or warranties;
- (5) Violation of any local fire, health, or safety statute or ordinance;
- (6) Conviction of the named insured for a crime having as one of its necessary elements, an act increasing any hazard that is insured against;
- (7) The insurance commissioner determines that the continuation of the policy places the insurer in violation of chapter 431, Hawaii Revised Statutes;
- (8) For any good faith reason with the approval of the insurance commissioner.

**SECTION 6. Cancellation of policies; effective date.** In the event there is cancellation pursuant to sections 5 and 7 of this Act, such cancellation will be effective thirty days after the insurer delivers written notice of the cancellation to the policyholder.

**SECTION 7. Nonrenewal of policies; notice.** An insurer may refuse to renew a commercial liability policy if notice to the policyholder of the reasons for nonrenewal are provided to the insured forty-five days prior to the intended nonrenewal date. A commercial liability insurance policy, once issued shall not be cancelled or refused renewal by an insurer based upon the mandatory rate reductions as required by this Act.

**SECTION 8.** Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§431- Insurance contracts; punitive damages.** Coverage under any policy of insurance issued in this State shall not be construed to provide coverage for punitive or exemplary damages unless specifically included.”

**SECTION 9.** Section 431D-8, Hawaii Revised Statutes, is amended as follows:

**“[[§431D-8]] Powers and duties of association.** (a) The association shall:

- (1) Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty days after the determination of insolvency, or before the policy expiration date if less than thirty days after the determination, or before the insured replaces the policy or causes its cancellation, if the insured does so within thirty days of the determination, but such obligation shall include only that amount of each covered claim which is in excess of \$100 and is less than \$300,000, except that the association shall pay the full amount of any covered claim arising out of a workers' compensation policy.



In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises.

- (2) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent.
  - (3) Assess insurers amounts necessary to pay the obligations of the association under subsection (a)(1) subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, and the cost of examinations under section 431D-13, and other expenses authorized by this chapter. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year bears to the net direct written premiums of all member insurers for the preceding calendar year. Each member insurer shall be notified of the assessment not later than thirty days before it is due. No member insurer may be assessed in any year an amount greater than two per cent of that member insurer's net direct written premiums for the preceding calendar year. If the maximum assessment, together with the other assets of the association, does not provide in any one year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association may exempt or defer, in whole or part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. Each member insurer may set off against any assessment authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer.
  - (4) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims and may review settlements, releases, and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases, and judgments may be properly contested.
  - (5) Notify such persons as the insurance<sup>1</sup> commissioner directs under section 431D-10(b)(1).
  - (6) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the insurance<sup>1</sup> commissioner, but such designation may be declined by a member insurer.
  - (7) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this chapter.
- (b) The association may:
- (1) Employ or retain such persons as are necessary to handle claims and perform other duties of the association.

## ACT 2

- (2) Borrow funds necessary to effect the purposes of this chapter in accord with the plan of operation.
- (3) Sue or be sued.
- (4) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this chapter.
- (5) Perform such other acts as are necessary or proper to effectuate the purpose of this chapter.
- [(6) Refund to the member insurers in proportion to the contribution of each member insurer to the association that amount by which the assets of the association exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities of the association as estimated by the board of directors for the coming year.]”

SECTION 10. Section 431D-16, Hawaii Revised Statutes, is amended as follows:

**“§431D-16 [Recognition of assessment in rates.** The rates and premiums charged for insurance policies to which this chapter applies shall include amounts sufficient to recoup a sum equal to the amounts paid to the association by the member insurer less any amounts returned to the member insurer by the association and rates shall not be deemed excessive because they contain an amount reasonably calculated to recoup assessments paid by the member insurer.] **Recoupment of assessment.** (a) Each member insurer is required to recoup the assessments paid in the preceding year by the insurer under this chapter. The recoupment shall be recovered by means of a surcharge on premiums charged for policies for all kinds of insurance, except life, title, surety, disability, credit mortgage guaranty and ocean marine. The surcharge shall be at a uniform percentage rate reasonably calculated to recoup the assessment paid by the member insurer. Any excess recovery by a member insurer shall be credited prorata to that member insurer’s policyholders’ premiums in the succeeding year unless there has been a subsequent assessment, in which case the excess will be used to reduce the amount of the subsequent assessment. If a member insurer fails to recoup the entire amount of its assessment in the first year under the procedure provided in this section in the first year in which it surcharges premiums, it may repeat the procedure provided in this section in the succeeding year.

(b) Each insurer shall provide to the Hawaii Insurance Guarantee Association an accounting of its recoupments. The Hawaii Insurance Guarantee Association shall compile the insurers’ accountings and submit it as part of its annual report to the insurance commissioner.

(c) The amount and reason of any surcharge shall be separately stated on any billing sent an insured. The surcharge shall not be considered premiums for any other purpose, including the computation of gross premium tax or the determination of agents’ commissions.

(d) The insurance commissioner may permit a member insurer to omit collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge.

(e) The member insurers shall recoup any assessments paid after the effective date of this Act in the manner provided in this section.”

SECTION 11. Chapter 607, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§607- Attorneys’ fees in tort actions.** In all tort actions in which a judgment is entered by a court of competent jurisdiction, attorneys’ fees for both the plaintiff and the defendant shall be limited to a reasonable amount

as approved by the court having jurisdiction of the action. In any tort action in which a settlement is effected, the plaintiff or the defendant may request that the amount of their respective attorneys' fees be subject to approval of the court having jurisdiction of the action."

SECTION 12. Section 671-2, Hawaii Revised Statutes, is repealed.

SECTION 13. Section 607-14.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§607-14.5]]~~ **Attorneys' fees in civil actions.** (a) In any civil action in this State where a party seeks money[,] damages or injunctive relief, or both, against another party, and the case is subsequently decided; the court may, as it deems just, assess against either party, and enter as part of its order, for which execution may issue, a reasonable sum for attorneys' fees, in an amount to be determined by the court upon a specific finding that the party's claim or defense was [completely] frivolous; provided the amount shall not exceed twenty-five per cent of any amount originally prayed for by the party assessed.

(b) In determining the award of attorneys' fees and the amounts to be awarded, the court must find in writing that all claims or defenses made by the party are [completely] frivolous and are [totally unsupported] not reasonably supported by the facts and the law in the civil action."

SECTION 14. Chapter 657, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§657- Periodic payments of damages.** In any action in tort involving the State, any political subdivision of the State, or any governmental agency as a tortfeasor where a final judgment is obtained of more than \$1,000,000, the State, political subdivision, or governmental agency has the option of paying that portion of the award in excess of \$1,000,000 by periodic payments for a period not to exceed five years. The periodic payments shall include interest on the unpaid balance at the rate specified in section 478-2. A proposed periodic payment plan shall be submitted by the State, political subdivision, or governmental agency to the court in a post judgment hearing for final approval. The court shall approve or order modification of the plan based upon the facts and circumstances of the case and the needs of the parties."

SECTION 15. Section 657-7.3, Hawaii Revised Statutes, is amended to read as follows:

"**§657-7.3 Medical torts; limitation of actions; time.** No action for injury or death against a chiropractor, clinical laboratory technologist or technician, dentist, naturopath, nurse, nursing home administrator, dispensing optician, optometrist, osteopath, physician or surgeon, physical therapist, podiatrist, psychologist, or veterinarian duly licensed or registered under the laws of the State, or a licensed hospital as the employer of any such person, based upon such person's alleged professional negligence, or for rendering professional services without consent, or for error or omission in such person's practice, shall be brought more than two years after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, but in any event not more than six years after the date of the alleged act or omission causing the injury or death. This six year time limitation shall be tolled for any period during which the person has failed to disclose any act, error, or omission upon which the action is based and which is known to him.

## ACT 2

Actions by a minor shall be commenced within six years from the date of the alleged wrongful act except the actions by a minor under the age of ten years shall be commenced within six years or by the minor's tenth birthday, whichever provides a longer period. Such time limitation shall be tolled for any minor for any period during which the parent, guardian, insurer, or health care provider has committed fraud or gross negligence, or has been a party to a collusion in the failure to bring action on behalf of the injured minor for a medical tort. The time limitation shall also be tolled for any period during which the minor's injury or illness alleged to have arisen, in whole or in part, from the alleged wrongful act or omission could not have been discovered through the use of reasonable diligence."

SECTION 16. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§663- Collateral sources; protection for liens and rights of subrogation.** In any civil action in tort, the court, before any judgment or stipulation to dismiss the action is approved, shall determine the validity of any claim of a lien against the amount of the judgment or settlement by any person who files timely notice of the claim to the court or to the parties in the action. The judgment entered, or the order subsequent to settlement, shall include a statement of the amounts, if any, due and owing to any person determined by the court to be a holder of a valid lien and to be paid to the lienholder out of the amount of the corresponding special damages recovered by the judgment or settlement. In determining the payment due the lienholder, the court shall deduct from the payment a reasonable sum for the costs and fees incurred by the party who brought the civil action in tort. As used in this section, lien means a lien arising out of a claim for payments made or indemnified from collateral sources for costs and expenses arising out of the injury which is the subject of the civil action in tort."

SECTION 17. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§663- Abolition of joint and several liability; exceptions.** Joint and several liability for joint tortfeasors as defined in section 663-11 is abolished except in the following circumstances:

- (1) For the recovery of economic damages against joint tortfeasors in actions involving injury or death to persons;
- (2) For the recovery of economic and non-economic damages against joint tortfeasors in actions involving:
  - (A) Intentional torts;
  - (B) Torts relating to environmental pollution;
  - (C) Toxic and asbestos-related torts;
  - (D) Torts relating to aircraft accidents;
  - (E) Strict and products liability torts; or
  - (F) Torts relating to motor vehicle accidents except as provided in paragraph (4).
- (3) For the recovery of non-economic damages in actions, other than those enumerated in paragraph (2), involving injury or death to persons against those tortfeasors whose individual degree of negligence is found to be twenty-five per cent or more under section 663-31. Where a tortfeasor's degree of negligence is less than twenty-five per cent, then the amount recoverable against that tortfeasor for non-economic damages shall be in direct proportion to the degree of negligence assigned.

- (4) For recovery of non-economic damages in motor vehicle accidents involving tort actions relating to the maintenance and design of highways including actions involving guardrails, utility poles, street and directional signs, and any other highway-related device upon a showing that the affected joint tortfeasor was given reasonable prior notice of a prior occurrence under similar circumstances to the occurrence upon which the tort claim is based. In actions in which the affected joint tortfeasor has not been shown to have had such reasonable prior notice, the recovery of non-economic damages shall be as provided in paragraph (3).”

SECTION 18. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§663- **Loss or impairment of earning capacity; damages.** (a) In all tort cases where damages are awarded for loss or impairment of earning capacity, the amount of probable future earnings shall be determined by taking into account the effect of probable taxes.

(b) Nothing in this section shall be construed to limit or restrict the use of other factors deemed appropriate by a court in calculating damages awarded for loss or impairment of earning capacity.”

SECTION 19. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§663- **Non-economic damages; defined.** (a) Non-economic damages which are recoverable in tort actions include damages for pain and suffering, mental anguish, disfigurement, loss of enjoyment of life, loss of consortium, and all other non-pecuniary losses or claims.

(b) Pain and suffering is one type of non-economic damage and means the actual physical pain and suffering that is the proximate result of a physical injury sustained by a person.”

SECTION 20. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§663- **Limitation on pain and suffering.** Damages recoverable for pain and suffering as defined in section 663- shall be limited to a maximum award of \$375,000; provided that this limitation shall not apply to tort actions enumerated in section 663- (2).”

SECTION 21. Chapter 601, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§601- **Court annexed arbitration program.** (a) There is established within the judiciary a court annexed arbitration program which shall be a mandatory and non-binding arbitration program to provide for a procedure to obtain prompt and equitable resolution of certain civil actions in tort through arbitration. The supreme court shall adopt rules for the implementation and administration of the program by January 1, 1987.

(b) All civil actions in tort, having a probable jury award value, not reduced by the issue of liability, exclusive of interest and costs, of \$150,000 or less, shall be submitted to the program and be subject to determination of arbitrability and to arbitration under the rules governing the program. The rules shall include a procedure to classify and establish the order of priority according to which the actions will be processed for the determination of arbitrability and for the arbitration under the program. The court may, at its discretion, remove any action from the program.

## ACT 2

(c) The chief justice may hire on a contractual basis, and at the chief justice's pleasure remove, without regard to chapters 76 and 77, an arbitration administrator, who shall be responsible for the operation and management of the program, and such other persons deemed necessary for the purposes of the program in the judgment of the chief justice."

SECTION 22. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§663- Serious emotional distress arising from property damage; cause of action abolished; exception for physical injury.** (a) No party shall be liable for the negligent infliction of serious emotional distress or disturbance if the distress or disturbance arises solely out of damage to property or material objects.

(b) This section shall not apply if the serious emotional distress or disturbance results in physical injury to or mental illness of the person who experiences the emotional distress or disturbance."

SECTION 23. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for the fiscal year 1986-1987, for the subsidy payments covering liability insurance premiums of certain obstetricians and gynecologists as the insurance commissioner shall designate under this Act. The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

SECTION 24. There is appropriated out of the general revenues of the State of Hawaii the sum of \$400,000, or so much thereof as may be necessary for fiscal year 1986-1987, for the insurance commissioner to carry out the purposes of this Act, including the hiring of consultants and staff not subject to chapters 76 and 77. The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

SECTION 25. There is appropriated out of the general revenues of the State of Hawaii the sum of \$200,000, or so much thereof as may be necessary for fiscal year 1986-1987, to carry out the purposes of the court annexed arbitration program established by this Act including the hiring of necessary personnel. The sum appropriated shall be expended by the judiciary for the purposes of this Act.

SECTION 26. The insurance commissioner shall prepare and submit to the legislature, twenty days prior to the convening of the regular sessions of 1988 and 1989, respectively, closed case reports containing an evaluation of the operation and effects of this Act, and recommendations for changes or repeal of its provisions or portions thereof with supporting reason and data.

SECTION 27. The chief justice shall prepare and submit to the legislature, twenty days prior to the convening of the regular session of 1987, a report covering the status of the implementation of the court annexed arbitration program established under this Act, a projection of the personnel and activities reasonably required to carry out the purposes of the program, a proposed budget for the operation of the program with supporting data, and such recommendation with respect to the program aimed at reducing delay in the disposition of civil actions as the chief justice shall deem appropriate.

SECTION 28. This Act does not affect rights, duties, or actions that are based upon events or acts which have taken place prior to the effective

date of this Act, nor to penalties that were incurred and proceedings that were begun, before the effective date of this Act.

**SECTION 29. Severability.** If any provision of this Act, or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable; provided that Sections 2 to 7, Section 17, and Section 20 are not severable and if any one of these sections is held invalid all of Sections 2 to 7, Section 17, and Section 20 shall be invalid; provided further that Sections 2 to 7 and Section 15 are not severable and if any one of Sections 2 to 7 are held invalid, Section 15 shall be invalid.

**SECTION 30.** Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

**SECTION 31.** This Act shall take effect upon its approval, and Sections 2 to 7, Section 17, and Section 20 shall be repealed on October 1, 1989.

(Approved August 4, 1986.)

**Notes**

1. Should be underscored.
2. Edited pursuant to HRS §23G-16.5.

Session Laws of Hawaii  
Passed By The  
Fourteenth State Legislature  
Regular Session  
1987

ACT 1

H.B. NO. 1

A Bill for an Act Making Appropriations to Provide for the Expenses of the Legislature, the Legislative Auditor, the Legislative Reference Bureau, and the Ombudsman.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,846,853, or so much thereof as may be necessary, for defraying any and all session and nonsession expenses of the Senate up to and including June 30, 1988, including but not limited to the 1987 regular session, Fourteenth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1987 and 1988 regular sessions.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,713,695, or so much thereof as may be necessary, for defraying any and all session and nonsession expenses of the House of Representatives up to and including June 30, 1988, including but not limited to the 1987 regular session, Fourteenth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1987 and 1988 regular sessions.

SECTION 3. Payment of expenses of the Senate during the interim between the 1987 and 1988 regular sessions shall be made only with the approval of the President of the Senate, and payment of expenses of the House of Representatives during the interim between the 1987 and 1988 sessions shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 20, 1988, the Senate and the House of Representatives shall have their accounts audited and a full report of such audit shall be presented to the Senate and to the House of Representatives of the Legislature convening on January 20, 1988.

SECTION 5. The expenses of any member of the Legislature while traveling abroad on official business of the Legislature shall not be limited by the provisions of section 78-15, Hawaii Revised Statutes, or by any other general statute. Until otherwise prescribed by law, the expenses of such member shall be \$90 a day and authorized by the President of the Senate and the Speaker of the House of Representatives, respectively.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,925,782, to the office of the legislative auditor for the following expenses: (a) the sum of \$1,505,000, or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1987-1988; (b) the sum of \$270,782, or so much thereof as may be necessary for defraying the expenses of the office of



the state ethics commission during the fiscal year 1987-1988; (c) the sum of \$150,000, or so much thereof as may be necessary during the fiscal year 1987-1988, for (1) performing special studies, (2) improving capabilities for planning, programming and budgeting, (3) fulfilling other special requests made of the legislative auditor by the Legislature or jointly by the President of the Senate and the Speaker of the House of Representatives, (4) legislative studies and for contractual services for such studies, and (5) such other purposes as may be determined by the joint action of the President of the Senate and the Speaker of the House of Representatives.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,465,934, or so much thereof as may be necessary, to the legislative reference bureau for defraying the expenses of the bureau during the fiscal year 1987-1988, including equipment relating to computer systems programming and operations. This sum includes \$25,000 to be utilized in addition to the \$50,000 appropriated by Act 1, Session Laws of Hawaii 1986, for hosting the 1987 Western Legislative Conference of the Council of State Governments. The total appropriation for the Conference shall not lapse until June 30, 1988, and shall be subject to all terms and conditions set forth in the Act.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$416,000, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during the fiscal year 1987-1988.

SECTION 9. As of the close of business on June 30, 1988, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 10. Each section of this Act is declared to be severable from the remainder of this Act.

SECTION 11. This Act shall take effect upon its approval.

(Approved February 13, 1987.)

## ACT 2

S.B. NO. 263

A Bill for an Act Relating to the Legislature.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 24-1, Hawaii Revised Statutes, is amended to read as follows:

**"§24-1 Allowance for incidental expenses.** Each member of the legislature shall receive an annual allowance of [~~\$2,500.~~] **\$5,000**, which amount is to cover incidental expenses connected with legislative duties and the amount shall be payable in a manner prescribed by the respective rules of each house."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved March 6, 1987.)

A Bill for an Act Relating to Act 145, Session Laws of Hawaii 1984.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature has heretofore authorized special purpose revenue bonds pursuant to Act 145, Session Laws of Hawaii 1984, for the purpose of assisting Kamakani Ikaika, Inc., or a partnership in which such company is a general partner, in the establishment of a wind energy farm and related facilities. It is in the public interest and for the public health, safety and general welfare to amend said Act to expressly provide that the output of the wind energy farm approved by said Act 145 shall be made available for use by members of the general public by its sale to Hawaii Electric Light Company, Inc.

SECTION 2. Section 2 of Act 145, Session Laws of Hawaii 1984, is hereby amended to read as follows:

"SECTION 2. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$12,000,000 in one or more series for the purpose of assisting Kamakani Ikaika, Inc., a California corporation, or a partnership in which Kamakani Ikaika, Inc., is a general partner, in the generation of new capital for the establishment of a [5 megawatt] wind energy farm and related facilities. The electrical output of such facilities shall be made available to members of the general public by sale thereof to Hawaii Electric Light Company, Inc. The legislature finds and determines that the activity and facilities of Kamakani Ikaika, Inc., constitutes a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval retroactive to May 24, 1984.

(Approved April 6, 1987.)

A Bill for an Act Relating to State Resort Camps and Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 184, Part II, Hawaii Revised Statutes, is repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 9, 1987.)

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** The legislature finds that Kahana Valley State Park possesses unique historical and natural resources and persons long associated with Kahana Valley who are knowledgeable and qualified to interpret for the general public the significance of these resources for the public's benefit and enjoyment. Accordingly, the purpose of this Act is to authorize the department of land and natural resources to directly issue long-term residential leases to those qualified persons now residing in Kahana Valley on the condition that these qualified persons participate in Kahana Valley State Park's interpretive programs for the public.

**SECTION 2.** The department of land and natural resources is hereby authorized to negotiate and enter into long-term residential leases not to exceed sixty-five years in duration with persons who meet the following criteria:

- (1) Persons who at the time of enactment of this Act reside in Kahana Valley on land acquired for Kahana Valley State Park and have lived continuously on this land since before 1970; or
- (2) Persons who on the effective date of this Act have permits issued by the department of land and natural resources allowing them to reside on designated parcels of land acquired for Kahana Valley State Park.

**SECTION 3.** In exchange for the State's long-term leases, all qualified persons shall agree to be an essential part of the interpretive programs in Kahana Valley State Park as directed by the department of land and natural resources. The department of land and natural resources is required to establish a monitoring system and enforcement mechanism to insure compliance with these agreements.

**SECTION 4.** The lands eligible for long-term residential lease negotiations under the provisions of this Act are limited to those located in tax map key parcels 5-2-01:1, 5-2-02:all, and 5-2-05:1 and 21, situate at Kahana Valley and as further determined by the board of land and natural resources.

**SECTION 5.** The department of land and natural resources is authorized to subdivide and provide for the creation of a residential subdivision in Kahana Valley for persons who receive long-term leases under the provisions of this Act, which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, the development and improvement of land, and the construction of units thereon; provided that the department of land and natural resources finds the project is consistent with the findings and purpose of this Act and the project meets minimum requirements of health and safety; and provided further that no state funds shall be expended in the relocation or construction of these residences authorized under the provisions of this Act.

**SECTION 6.** Notwithstanding any other law to the contrary, including chapter 171, Hawaii Revised Statutes, the department of land and natural resources is authorized to negotiate and enter into lease agreements in accordance with the provisions and limitations of this Act; provided that the authority granted by this Act shall expire (1) when leases have been negotiated and recorded in the bureau of conveyances for all parcels meeting the criteria in this Act, or (2) on January 1, 1992, whichever occurs first.

## ACT 6

SECTION 7. This Act shall take effect upon its approval.

(Approved April 13, 1987.)

## ACT 6

H.B. NO. 312

A Bill for an Act Relating to Decisions of the Commissioner of Financial Institutions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 403-25, Hawaii Revised Statutes, is amended to read as follows:

**“§403-25 Hearing and investigation; ruling of commissioner.** Upon the hearing of the application the commissioner shall make investigation of the facts and conditions referred to in the application or pertinent thereto, and hear any objections thereto. At any hearing the burden of proof shall be upon the applicants. The commissioner may prescribe rules and regulations for the proceedings in connection with the hearing.

If the result of the hearing satisfies the commissioner:

- (1) That the proposed bank is to be formed for legitimate objects as contemplated by this chapter;
- (2) That the character, financial responsibility, and general fitness of the persons named in the application are such as to command the confidence of the community in which the proposed bank is to be located and to warrant the belief that the business of the proposed corporation will be honestly and efficiently conducted;
- (3) That the proposed directors and officers are competent to successfully manage a banking business;
- (4) That the organization of the proposed bank is justified; and
- (5) That the public convenience and advantage will be promoted by the opening of the proposed bank;

then the commissioner shall approve the application, and shall endorse on each of the duplicate original applications the date and the word “approved” over the commissioner’s official signature.

If the commissioner is not satisfied or believes that the public interest will be endangered or that the approval of the application is not otherwise advisable the commissioner shall endorse with the date the word “disapproved” thereon. One of the duplicate original applications shall be filed in the commissioner’s office and the other returned by mail to the applicants. [The commissioner may grant a conditional approval of any application requiring the applicants to make such additional showing or such changes in the proposed bank as the commissioner may consider advisable.] Any decision of the commissioner adverse to the applicants shall be reviewable upon appeal to the circuit court of the first judicial circuit as provided in chapter 91.”

SECTION 2. Section 404-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

**“(d) If the commissioner disapproves an agreement, the commissioner shall state the commissioner’s objections [and give an opportunity to the merging banks to amend the merger agreement to obviate the objections]. Any decision of the commissioner adverse to the merging banks shall be**

reviewable upon appeal to the circuit court of the first judicial circuit as provided in chapter 91.”

SECTION 3. Section 406-3, Hawaii Revised Statutes, is amended to read as follows:

**“§406-3 Conditions precedent to qualification.** No corporation or joint-stock company shall become qualified to do business as a trust company, and the certificate provided for in section 406-1.5 shall not be issued to any corporation or joint-stock company, until the commissioner is satisfied with or without a hearing on the application: (1) that the proposed trust company is to be qualified for legitimate objects as contemplated by this chapter; (2) that the character, financial responsibility, and general fitness of the officers and the directors of the proposed trust company are such as to command the confidence of the community in which the proposed trust company is to be located and to warrant the belief that the business of the proposed trust company will be honestly and efficiently conducted; and (3) that data and facts submitted support reasonable assurances of the profitability of the operation of the proposed trust company. The commissioner may prescribe rules and regulations for the implementation of this chapter, including rules and regulations governing proceedings in connection with any hearing or investigation. Any decision of the commissioner adverse to the applicant shall be reviewable upon appeal to the circuit court of the first judicial circuit as provided in chapter 91. [The court shall hear the appeal de novo without a jury.]”

SECTION 4. Section 407-13, Hawaii Revised Statutes, is amended to read as follows:

**“§407-13 Investigation by commissioner; allowance or disallowance, procedure.** Upon the filing of the application, if the commissioner upon investigation finds (1) that the financial responsibility, experience, character, and general fitness of the applicants and of the officers or members thereof are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly and efficiently within the purposes of this chapter; (2) that allowing the applicants to engage in this business will promote the convenience and advantage of the locality or community in which the business of the applicants is to be conducted; and (3) that capital stock in excess of \$25,000 has been subscribed for and ten per cent paid to the applicants in cash; the commissioner shall write upon the face of the application the fact that the commissioner has approved the same, together with the date, and affix the commissioner’s signature. The application shall then be returned to the applicants who shall upon receipt of the approved application transmit the same within thirty days to the commissioner, together with the articles of association, and pay to the commissioner the corporation and other filing fees required by law.

No application shall be disapproved except after the applicants have had notice of a hearing on the application and an opportunity to be heard thereon. If the application is denied, the commissioner shall, within twenty days thereafter, prepare and keep on file in the commissioner’s office, a written order [or] of denial thereof, which shall contain the commissioner’s findings with respect thereto and the reasons supporting the denial, and forthwith serve upon the applicants a copy thereof. [Within ten days after the receipt of the copy the applicants may appeal from the order of denial to a board consisting of the director of commerce and consumer affairs, comptroller, and director of taxation by filing with the comptroller a notice of appeal. After notice by mail to the applicants and after a hearing at which the

## ACT 6

applicants shall be entitled to be present and to be heard, the board shall file with the comptroller its decision in writing either ordering the commissioner to approve the application or affirming the commissioner's action in disapproving the same. A copy of the decision or order of the board shall forthwith be served upon the applicants by the commissioner. The applicants may appeal from an adverse decision of the board to the circuit court of the circuit in which the applicants propose to engage in business.] Any decision of the commissioner adverse to the applicants shall be reviewable upon appeal to the circuit court of the first judicial circuit as provided in chapter 91."

SECTION 5. Section 408-8, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) If the commissioner is not satisfied that the applicant meets all the criteria set forth in subsection (c), the commissioner shall hold a hearing on the application, at which time the applicant shall be given an opportunity to be heard. If the application is denied, the commissioner shall serve upon the applicant a copy of the order of denial, as well as the findings and reasons in support of the denial. [Within ten days after the receipt of the order, the applicant may appeal from the order of denial to a board consisting of the director of commerce and consumer affairs, comptroller, and attorney general by filing with the comptroller a notice of appeal. After notice by mail to the applicant and after a hearing at which the applicant shall be entitled to be present and to be heard, the board shall file with the comptroller its decision in writing either ordering the commissioner to approve the application or affirming the denial. A copy of the decision or order of the board shall forthwith be served upon the applicant by the commissioner. The applicant may appeal from an adverse decision of the board to the circuit court of the circuit in which the applicant proposes to establish an office.] Any decision of the commissioner adverse to the applicant shall be reviewable upon appeal to the circuit court of the first judicial circuit as provided in chapter 91."

SECTION 6. Section 449-7, Hawaii Revised Statutes, is amended to read as follows:

"§449-7 Investigation and ruling. The commissioner shall make an investigation into the information furnished by the applicant and may require the applicant to furnish additional information. If the commissioner is satisfied, with or without a hearing upon the application, that the character, financial responsibility, experience, ability, and general fitness of the officers and directors are such as to command the confidence of the business community in the State and to warrant the beliefs that the officers and directors are competent to successfully manage an escrow business and that the applicant will be an honest and efficient escrow depository, the commissioner shall approve the application. The commissioner shall not disapprove an application without giving the applicant a hearing thereupon. [The hearing and any appeal from a ruling of disapproval shall be conducted in accordance with chapter 91, and rules adopted by the commissioner in accordance with that chapter.] Any decision of the commissioner adverse to the applicant shall be reviewable upon appeal to the circuit court of the first judicial circuit as provided in chapter 91."

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved April 22, 1987.)

## ACT 7

H.B. NO. 314

A Bill for an Act Relating to General Excise Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237-24, Hawaii Revised Statutes, is amended to read as follows:

“§237-24 **Amounts not taxable.** This chapter shall not apply to the following amounts:

- (1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured;
- (2) Amounts received (other than amounts paid by reason of death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract;
- (3) Amounts received under any accident insurance or health insurance policy or contract or under workers' compensation acts or employers' liability acts, as compensation for personal injuries, death, or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of the personal injuries, death, or sickness;
- (4) The value of all property of every kind and sort acquired by gift, bequest, or devise, and the value of all property acquired by descent or inheritance;
- (5) Amounts received by any person as compensatory damages for any tort injury to the person, or to the person's character reputation, or received as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties (provided that amounts received as punitive damages for tort injury or breach of contract injury shall be included in gross income);
- (6) Amounts received as salaries or wages for services rendered by an employee to an employer;
- (7) Amounts received as alimony and other similar payments and settlements;
- (8) Amounts collected by distributors as fuel taxes on "liquid fuel" imposed by chapter 243, and the amounts collected by such distributors as a fuel tax imposed by any act of the Congress of the United States;
- (9) Taxes on liquor imposed by chapter 244D on dealers holding permits under that chapter;
- (10) The amounts of taxes on tobacco products imposed by chapter 245 on wholesalers or dealers holding licenses under that chapter and selling the products at wholesale, and the amounts of taxes on tobacco products collected from a wholesaler by another where the wholesaler makes separate charges for the amounts so

- collected from the wholesaler and collects the same from those purchasing from the wholesaler as provided by chapter 245;
- (11) Federal excise taxes imposed on articles sold at retail and collected from the purchasers thereof and paid to the federal government by the retailer;
  - (12) The amounts of federal taxes under chapter 37 of the Internal Revenue Code, or similar federal taxes, imposed on sugar manufactured in the State, paid by the manufacturer to the federal government;
  - (13) An amount up to, but not in excess of, \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging, or continuing, in any business, trade, activity, occupation, or calling within the State;
  - (14) Amounts received by an organization enumerated under section 237-23(a)(5) to (8) from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
  - (15) Amounts received by a producer of sugarcane from the manufacturer to whom the producer sells the sugarcane, where (A) the producer is an independent cane farmer, so classed by the secretary of agriculture under the Sugar Act of 1948 (61 Stat. 922, Chapter 519) as the Act may be amended or supplemented, and (B) the value of the sugar, and other products manufactured from the sugarcane, is included in the measure of the tax levied on the manufacturer under section 237-13(1), and (C) the producer's gross proceeds of sales are dependent upon the actual value of the products manufactured therefrom or the average value of all similar products manufactured by the manufacturer, and (D) the producer's gross proceeds of sales are reduced by reason of the tax on the value of the manufactured products;
  - (16) Money paid by the State or eleemosynary child-placing organizations to foster parents for their care of children in foster homes;
  - (17) Amounts received by a cooperative housing corporation from its shareholders in reimbursement of funds paid by such corporation for lease rental, real property taxes, and other expenses of operating and maintaining the cooperative land and improvements, provided that such a cooperative corporation is a corporation:
    - (A) Having one and only one class of stock outstanding;
    - (B) Each of the stockholders of which is entitled solely by reason of the stockholder's ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building owned or leased by the corporation;
    - (C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation;
  - (18) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped for a producer or produce dealer on one island of this State to a person, firm, or organization on another island of this State. The terms "agricultural commodity", "producer", and "produce dealer" shall be defined in the same manner as they are defined in section 147-1;



- (19) Amounts received from sales of (A) intoxicating liquor as defined in chapter 244D, (B) tobacco products as defined in chapter 245, and (C) agricultural, meat, or fish products grown, raised, or caught in Hawaii, when such sales are made to any person or common carrier in interstate or foreign commerce, or both, whether ocean-going or air, for consumption out-of-state by such person, crew, or passengers on such shipper's vessels or airplanes;
- (20) Amounts received by the manager or board of directors of an association of apartment owners of a horizontal property regime established in accordance with chapter 514A in reimbursement of sums paid for common expenses;
- (21) Any provision of law to the contrary notwithstanding, exemptions or exclusions from tax under this chapter allowed on or before April 1, 1978, for amounts received by any person or common carrier engaged in interstate or foreign commerce, or both, whether ocean-going or air, shall continue undiminished and be available thereafter to the extent and under the conditions such exemptions or exclusions have theretofore been previously allowed in the State under the provisions of the Constitution of the United States or an act of the Congress of the United States;
- (22) Amounts received by an employee benefit plan by way of contributions, dividends, interest, and other income; and amounts received by a nonprofit organization or office, as payments for costs and expenses incurred for the administration of an employee benefit plan. For the purposes of this paragraph, "employee benefit plan" means any plan as defined in section 1002(3) of title 29 of the United States Code, as amended;
- (23) Amounts received for purchase made with United States Department of Agriculture food coupons if the United States Secretary of Agriculture determines under Public Law 99-198 that the tax imposed by this chapter will disqualify the State of Hawaii from participation in the federal food stamp program. If such a determination is made, and upon being so informed by the United States Secretary of Agriculture, the director of taxation shall immediately inform the general public by public notice of the exempt status;
- (24) Amounts received by a hospital, infirmary, medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual. This paragraph shall not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices. As used in this section: "Prescription drugs" are those drugs [required to be prescribed] defined under section 328-1(4) and dispensed by filling or refilling a written or oral prescription by a practitioner licensed under law to administer the drug and [which are dispensed and] sold by a licensed pharmacist under section 328-16[.] or practitioners licensed to administer drugs. "Prosthetic device" means any artificial device or appliance, instrument, apparatus, or contrivance, including their components, parts, accessories, and replacements thereof, used to replace a missing or surgically removed part of the human body

## ACT 8

which is prescribed by a licensed practitioner of medicine, osteopathy, or podiatry[;] and which is sold by such practitioner or which is dispensed and sold by a dealer of prosthetic devices; provided that "prosthetic device" shall not mean any auditory, ophthalmic, dental, or ocular device or appliance[;], instrument, apparatus, or contrivance;

- (25) Taxes on transient accommodations imposed by chapter 237D and passed on and collected by operators holding certificates of registration under that chapter; and
- (26) Amounts received as dues by an unincorporated merchants association from its membership for advertising media, promotional, and advertising costs for the promotion of the association for the benefit of its members as a whole and not for the benefit of an individual member or group of members less than the entire membership."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1987.

(Approved April 22, 1987.)

## ACT 8

S.B. NO. 318

A Bill for an Act Relating to the Hawaii Community Development Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 206E-6, Hawaii Revised Statutes, is amended to read as follows:

**"§206E-6 District-wide improvement program.** (a) The authority shall develop a district-wide improvement program to identify necessary district-wide public facilities within a community development district.

(b) Whenever the authority shall determine to undertake, or cause to be undertaken, any public facility as part of the district-wide improvement program, the cost of providing the public facilities shall be assessed against the real property in the community development district specially benefiting from such public facilities. The authority shall determine the areas of the community development district which will benefit from the public facilities to be undertaken and, if less than the entire community development district benefits, the authority may establish assessment areas within the community development district. The authority may issue and sell bonds in such amounts as may be authorized by the legislature to provide funds to finance such public facilities. The authority shall fix the assessments against real property specially benefited. All assessments made pursuant to this section shall be a statutory lien against each lot or parcel of land assessed from the date of the notice declaring the assessment until paid and such lien shall have priority over all other liens except the lien of property taxes. As between liens of assessments, the earlier lien shall be superior to the later lien.

(c) Bonds issued to provide funds to finance public facilities shall be secured solely by the real properties benefited or improved, the assessments thereon, or by the revenues derived from the program for which the bonds

are issued, including reserve accounts and earnings thereon, insurance proceeds, and other revenues, or any combination thereof. The bonds may be additionally secured by the pledge or assignment of loans and other agreements or any note or other undertaking, obligation, or property held by the authority. Bonds issued pursuant to this section and the income therefrom shall be exempt from all state and county taxation, except transfer and estate taxes. The bonds shall be issued according and subject to the provisions of the rules adopted pursuant to this section.

(d) Any other law to the contrary notwithstanding, in assessing real property for public facilities, the authority shall assess the real property within an assessment area according to the special benefits conferred upon the real property by the public facilities. These methods may include assessment on a frontage basis or according to the area of real property within an assessment area or any other assessment method which assesses the real property according to the special benefit conferred, or any combination thereof. No such assessment levied against real property specially benefited as provided by this chapter shall constitute a tax on real property within the meanings of any constitutional or statutory provisions.

(e) The authority may adopt rules pursuant to chapter 91, and may amend the rules from time to time, providing for the method of undertaking and financing public facilities in an assessment area or an entire community development district. The rules adopted pursuant to this section may include, but are not limited to, the following: methods by which the authority shall establish assessment areas; the method of assessment of real properties specially benefited; the costs to be borne by the authority, the county in which the public facilities are situated, and the property owners; the procedures before the authority relating to the creation of the assessment areas by the owners of real property therein, including provisions for petitions, bids, contracts, bonds, and notices; provisions relating to assessments; provisions relating to financing, such as bonds, revolving funds, advances from available funds, special funds for payment of bonds, payment of principal and interest, and sale and use of bonds; provisions relating to funds and refunding of outstanding debts; and provisions relating to limitations on time to sue, and other related provisions.

(f) Any provisions to the contrary notwithstanding, the authority may, in its discretion, enter into any agreement with the county in which the public facilities are located, to implement all or part of the purposes of this section.

(g) All sums collected under this section shall be deposited in the Hawaii community development revolving fund established by section 206E-16; except that notwithstanding section 206E-16, all moneys collected on account of assessments and interest thereon for any specific public facilities[,] financed by the issuance of bonds shall be set apart in a separate special fund and applied solely to the payment of the principal and interest on these bonds, the cost of administering, operating, and maintaining the program, the establishment of reserves, and other purposes as may be authorized in the proceedings providing for the issuance of the bonds. If any surplus remains in any special fund after the payment of the bonds chargeable against such fund, it shall be credited to and become a part of the Hawaii community development revolving fund. Moneys in the Hawaii community development revolving fund may be used to make up any deficiencies in the special fund.

(h) If the public facilities to be financed through bonds issued by the authority may be dedicated to the county in which the public facilities are to

## ACT 9

be located, the authority shall ensure that the public facilities are designed and constructed to meet county requirements.

(i) Notwithstanding any law to the contrary, whenever as part of a district-wide improvement program it becomes necessary to remove, relocate, replace, or reconstruct public utility facilities, the authority shall establish by rule the allocation of cost between the authority, the affected public utilities, and properties that may specially benefit from such improvement, if any. In determining the allocation of cost, the authority shall consider the cost allocation policies for improvement districts established by the county in which the removal, relocation, replacement, or reconstruction is to take place.

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1987.)

## ACT 9

S.B. NO. 411

A Bill for an Act Relating to the State Gem.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 5, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§5- State gem. The black coral is established and designated as the official gem of the State.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 10

S.B. NO. 596

A Bill for an Act Relating to Assistance to Displaced Persons.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 111-1, Hawaii Revised Statutes, is amended to read as follows:

“§111-1 Findings and declaration of legislative purpose. The legislature hereby finds and declares that it is in the public interest that persons lawfully residing on or lawfully occupying real property and displaced by any action undertaken by any state or county governmental agency should be compensated for such displacement under certain circumstances. The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of owners, tenants, other persons, and business concerns lawfully residing on or lawfully occupying real property and displaced by the acquisition of real property for public or other purposes in the public interest[,] by

building, zoning, [and other similar] and housing code enforcement activities[, or by a program of voluntary rehabilitation of buildings or other improvements conducted pursuant to governmental supervision].”

SECTION 2. Section 111-2, Hawaii Revised Statutes, is amended by amending the definition of “displaced person” to read as follows:

““Displaced person” means any person who is lawfully residing on or lawfully occupying real property and is required to move from any real property on or after June 25, 1970, as a result of the acquisition or imminence of acquisition of such real property, in whole or in part, by a state agency or who moves from such real property as a result of the acquisition or imminence of acquisition by such state agency of other real property on which such person is lawfully conducting a business or farm operation. “Displaced person” also includes the foregoing movements from real property by any person lawfully residing on or lawfully occupying real property who is required to move from any real property as a result of [a governmental program of voluntary rehabilitation or building, zoning, and other similar] code enforcement activities. “Displaced person” as defined in this chapter shall not include a tenant upon or occupier of state land under a revocable permit which is issued or renewed on or after June 7, 1974, provided that those persons who are issued revocable permits on state land which they had previously occupied as lawful tenants or lawful occupiers of private land which is subsequently acquired by the State, by virtue of which acquisition the revocable permits are issued immediately upon acquisition, shall be entitled to assistance as displaced persons upon displacement at the termination of the revocable permits. “Displaced persons” as defined in this chapter shall also not include a squatter or trespasser upon state land or any person unlawfully residing on or unlawfully occupying any real property.”

SECTION 3. Section 111-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Code” means the housing, building, and zoning codes of the counties.”

SECTION 4. Section 111-3, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) If any state agency displaces any person as a result of [zoning] code enforcement, that person shall be entitled to benefits under this section unless the displaced person is in any way responsible for the violation. The state agency shall have the right to recover from the party responsible for a [zoning] code violation any moneys paid out under [HRS,] chapter 111.”

SECTION 5. Section 111-8.5, Hawaii Revised Statutes, is amended to read as follows:

“**[§111-8.5] Reimbursement procedure.** (a) The state agency shall make a written demand for the amount due under this chapter from any person responsible for a [zoning] code violation. Such amount shall be recoverable by the state agency in the same manner as a debt due.

(b) If the owner of real property from which persons are forced to move because of [zoning] code enforcement is the person responsible for the [zoning] code violation, and the owner fails to pay the state agency within sixty days after written demand, the state agency may claim a lien against the real property from which persons are displaced. This lien shall be in addition to any other remedy the state agency may have. Such lien may be foreclosed

## ACT 11

in the same manner as liens for real property taxes and in accordance with sections 246-55 to 246-61.

(c) Payments in accordance with this section to the state agency by the party responsible for the [zoning] code violation shall not relieve the party from complying with the notices ordering compliance with codes issued by the state agency."

SECTION 6. Section 111-12, Hawaii Revised Statutes, is amended to read as follows:

"**§111-12 Appeals.** Any person aggrieved by a state agency's determination concerning eligibility for an amount of relocation payments authorized by this chapter or by a determination that the party is responsible for a [zoning] code violation may appeal such determination to the circuit court of the circuit in which the displaced person or party then resides. The appeal shall be made pursuant to the administrative procedure act set forth in chapter 91."

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved April 22, 1987.)

## ACT 11

H.B. NO. 878

A Bill for an Act Relating to the Hawaii Code of Military Justice.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 124A-169, Hawaii Revised Statutes, is amended to read as follows:

**"[~~§~~124A-169~~]~~ Immunity for action of military courts~~.]~~ or nonjudicial punishment.** No accused may bring an action or proceeding against [the]:

- (1) The convening authority or a member of a military court or officer or person acting under its authority or reviewing its proceedings because of the approval, imposition, or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court~~].~~;
- or
- (2) A commanding officer for imposing any authorized nonjudicial punishment."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1987.)

## ACT 12

H.B. NO. 882

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 321-11.3, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 13**

H.B. NO. 884

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 325, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§325- Prenatal hepatitis B screening and treatment of newborns.**

The department of health may adopt rules necessary to provide appropriate hepatitis B screening of pregnant women, including reporting and follow-up procedures for newborns of hepatitis B carrier mothers. The department may provide medications necessary for the treatment of newborns of indigent and medically indigent carrier mothers.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 14**

H.B. NO. 887

A Bill for an Act Relating to Mental Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 334-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A service area board shall be established to advise each service area center. The board shall consist of nine members appointed by the governor, who shall serve for a term to be determined by the governor. After the initial appointees, the governor shall fill each vacancy on a board by appointing a member from a list of four persons submitted by that board[.], except that, if the board is unable to achieve a quorum at two consecutive meetings called for the purpose of making such a list, the list may be provided by a group of at least seven service area residents. This group shall consist of all board members willing to participate in making the list and other area residents to be selected by the service area center chief. Any meeting called for the purpose of making the list shall be subject to part I of chapter 92. The members of the board shall be service area residents and

## ACT 15

service area providers with a majority being residents and nonproviders of mental health or other health services.

The board members shall elect a chairperson. All members shall serve without compensation but shall be paid their necessary expenses in attending meetings of the board.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1987.)

## ACT 15

H.B. NO. 1324

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237-24, Hawaii Revised Statutes, is amended to read as follows:

“§237-24 **Amounts not taxable.** This chapter shall not apply to the following amounts:

- (1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured;
- (2) Amounts received (other than amounts paid by reason of death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract;
- (3) Amounts received under any accident insurance or health insurance policy or contract or under workers' compensation acts or employers' liability acts, as compensation for personal injuries, death, or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of the personal injuries, death, or sickness;
- (4) The value of all property of every kind and sort acquired by gift, bequest, or devise, and the value of all property acquired by descent or inheritance;
- (5) Amounts received by any person as compensatory damages for any tort injury to the person, or to the person's character reputation, or received as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties (provided that amounts received as punitive damages for tort injury or breach of contract injury shall be included in gross income);
- (6) Amounts received as salaries or wages for services rendered by an employee to an employer;
- (7) Amounts received as alimony and other similar payments and settlements;
- (8) Amounts collected by distributors as fuel taxes on “liquid fuel” imposed by chapter 243, and the amounts collected by such distributors as a fuel tax imposed by any act of the Congress of the United States;



- (9) Taxes on liquor imposed by chapter 244D on dealers holding permits under that chapter;
- (10) The amounts of taxes on tobacco products imposed by chapter 245 on wholesalers or dealers holding licenses under that chapter and selling the products at wholesale, and the amounts of taxes on tobacco products collected from a wholesaler by another where the wholesaler makes separate charges for the amounts so collected from the wholesaler and collects the same from those purchasing from the wholesaler as provided by chapter 245;
- (11) Federal excise taxes imposed on articles sold at retail and collected from the purchasers thereof and paid to the federal government by the retailer;
- (12) The amounts of federal taxes under chapter 37 of the Internal Revenue Code, or similar federal taxes, imposed on sugar manufactured in the State, paid by the manufacturer to the federal government;
- (13) An amount up to, but not in excess of, \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging, or continuing, in any business, trade, activity, occupation, or calling within the State;
- (14) Amounts received by an organization enumerated under section 237-23(a)(5) to (8) from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
- (15) Amounts received by a producer of sugarcane from the manufacturer to whom the producer sells the sugarcane, where (A) the producer is an independent cane farmer, so classed by the secretary of agriculture under the Sugar Act of 1948 (61 Stat. 922, Chapter 519) as the Act may be amended or supplemented, and (B) the value of the sugar, and other products manufactured from the sugarcane, is included in the measure of the tax levied on the manufacturer under section 237-13(1), and (C) the producer's gross proceeds of sales are dependent upon the actual value of the products manufactured therefrom or the average value of all similar products manufactured by the manufacturer, and (D) the producer's gross proceeds of sales are reduced by reason of the tax on the value of the manufactured products;
- (16) Money paid by the State or eleemosynary child-placing organizations to foster parents for their care of children in foster homes;
- (17) Amounts received by a cooperative housing corporation from its shareholders in reimbursement of funds paid by such corporation for lease rental, real property taxes, and other expenses of operating and maintaining the cooperative land and improvements, provided that such a cooperative corporation is a corporation:
  - (A) Having one and only one class of stock outstanding;
  - (B) Each of the stockholders of which is entitled solely by reason of the stockholder's ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building owned or leased by the corporation;
  - (C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation;

## ACT 15

- (18) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped for a producer or produce dealer on one island of this State to a person, firm, or organization on another island of this State. The terms "agricultural commodity", "producer", and "produce dealer" shall be defined in the same manner as they are defined in section 147-1;
- (19) Amounts received from sales of (A) intoxicating liquor as defined in chapter 244D, (B) tobacco products as defined in chapter 245, and (C) agricultural, meat, or fish products grown, raised, or caught in Hawaii, when such sales are made to any person or common carrier in interstate or foreign commerce, or both, whether ocean-going or air, for consumption out-of-state by such person, crew, or passengers on such shipper's vessels or airplanes;
- (20) Amounts received by the manager or board of directors of an association of apartment owners of a horizontal property regime established in accordance with chapter 514A in reimbursement of sums paid for common expenses;
- (21) Any provision of law to the contrary notwithstanding, exemptions or exclusions from tax under this chapter allowed on or before April 1, 1978, for amounts received by any person or common carrier engaged in interstate or foreign commerce, or both, whether ocean-going or air, shall continue undiminished and be available thereafter to the extent and under the conditions such exemptions or exclusions have theretofore been previously allowed in the State under the provisions of the Constitution of the United States or an act of the Congress of the United States;
- (22) Amounts received by an employee benefit plan by way of contributions, dividends, interest, and other income; and amounts received by a nonprofit organization or office, as payments for costs and expenses incurred for the administration of an employee benefit plan. For the purposes of this paragraph, "employee benefit plan" means any plan as defined in section 1002(3) of title 29 of the United States Code, as amended;
- (23) Amounts received for purchases made with United States Department of Agriculture food coupons [if the United States Secretary of Agriculture determines under Public Law 99-198 that the tax imposed by this chapter will disqualify the State of Hawaii from participation in] under the federal food stamp program]. If such a determination is made, and upon being so informed by the United States Secretary of Agriculture, the director of taxation shall immediately inform the general public by public notice of the exempt status;], and amounts received for purchases made with United States Department of Agriculture food vouchers under the Special Supplemental Food Program for Women, Infants and Children;
- (24) Amounts received by a hospital, infirmary, medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual. This paragraph shall not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices. As used in this section: "Prescription drugs" are those drugs required to be prescribed by a practitioner licensed under law to administer the

drug and which are dispensed and sold by a licensed pharmacist under section 328-16.

“Prosthetic device” means any artificial device or appliance used to replace a missing or surgically removed part of the human body prescribed by a licensed practitioner of medicine, osteopathy, or podiatry; provided that “prosthetic device” shall not mean any auditory, ophthalmic, dental, or ocular device or appliance;

- (25) Taxes on transient accommodations imposed by chapter 237D and passed on and collected by operators holding certificates of registration under that chapter; and
- (26) Amounts received as dues by an unincorporated merchants association from its membership for advertising media, promotional, and advertising costs for the promotion of the association for the benefit of its members as a whole and not for the benefit of an individual member or group of members less than the entire membership.”

SECTION 2. The director of taxation shall, before the effective date of this Act, inform the general public by public notice of the exempt status of amounts received for purchases made with United States Department of Agriculture food vouchers under the Special Supplemental Food Program for Women, Infants and Children.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on October 1, 1987.

(Approved April 22, 1987.)

**ACT 16**

H.B. NO. 1520

A Bill for an Act Relating to the University of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 304-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board of regents shall have management and control of the general affairs, and exclusive jurisdiction over the internal organization and management, of the university. It may appoint a treasurer and such other officers as it deems necessary. It may authorize any officer, elected or appointed by it, to approve and sign on its behalf any voucher or other document which the board may approve and sign. It may purchase or otherwise acquire lands, buildings, appliances, and other property for the purposes of the university and expend such sums of money as may be from time to time placed at the disposal of the university from whatever source. All lands, buildings, appliances, and other property so purchased or acquired shall be and remain the property of the university to be used in perpetuity for the benefit of the university. The board of regents, in accordance with law, shall manage the inventory, equipment, surplus property, and expenditures of the university and, subject to chapter 91, may adopt rules, further controlling and regulating the same.”

SECTION 2. New statutory material is underscored.

## ACT 17

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1987.)

## ACT 17

H.B. NO. 883

A Bill for an Act Relating to Professions and Occupations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Sections 445-151, 445-152, and 445-153, Hawaii Revised Statutes, are repealed.

SECTION 2. Statutory material to be repealed is bracketed.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved April 23, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 18

H.B. NO. 1312

A Bill for an Act Relating to the Governor's Agriculture Coordinating Committee.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 164-1, Hawaii Revised Statutes, is amended to read as follows:

**"§164-1 Establishment of the governor's agriculture coordinating committee.** There is established, in the governor's office for administrative purposes, the governor's agriculture coordinating committee, whose membership shall include the special assistant for agriculture, office of the governor, who shall be the chairperson, the director of planning and economic development, the chairperson of the board of land and natural resources, the chairperson of the board of agriculture, the director of transportation, the chairperson of the Hawaiian homes commission, or their respective deputies, the dean of the college of tropical agriculture and human resources, or at the designation of the dean, the director of the Hawaii institute of tropical agriculture and human resources, and three farmers, one of whom shall be a representative of a recognized nonprofit association of farmers. All members of the committee shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of the duties and responsibilities of the committee. [Effective January 1, 1986, the] The salary of the special assistant to the governor for agriculture shall be [\$36,026 a year.] fixed by the governor."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Became law on April 24, 1987, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

A Bill for an Act Making an Appropriation for the Support of the 1990 America's Cup in Hawaiian Waters.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The America's Cup began 135 years ago as a leisurely yachting regatta, and has now become a huge international event which generates intense interest in the sport, travel, and technology. The benefits of hosting the America's Cup race to Hawaii include:

1. Substantial income to the State from excise and hotel room taxes;
2. The incremental effect on the entire community from the re-circulation of spending by the syndicates, their friends, families, supporters, and spectators;
3. The ongoing benefits resulting from exposure of Hawaii to millions of people worldwide, who will be watching the event on television;
4. The residual use of the facilities by the community; and
5. The opportunity to attract participants from all over the Pacific and the world to other major yachting events held in the State, once it becomes evident that Hawaii has the supporting facilities in addition to our excellent wind, sea, and climatic conditions.

This year's America's Cup race aroused pride and spirit in the citizens of Australia and New Zealand. The Legislature would like to see that same pride and spirit aroused in Hawaii, along with the recognition, finally, throughout the world that Hawaii is indeed an important part of the United States.

The Governor's America's Cup Race Committee is already gathering information on the feasibility of attracting and hosting the next America's Cup. It is the understanding of the Legislature that a site will be selected within months. Therefore, it is imperative that efforts toward attracting the America's Cup to Hawaii be continued and strengthened.

The purpose of this Act is to appropriate moneys toward and to express strong legislative support for the efforts to bring the America's Cup to Hawaii so that other contenders will be convinced that Hawaii's government, as well as its citizens, stand solidly behind our bid to host the race.

This Act is recommended by the Governor for immediate passage in accordance with Article VII, section 9, of the Constitution of the State of Hawaii.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000 or so much thereof as may be necessary for the fiscal period 1986-1988, for the support of the immediately forthcoming America's Cup in Hawaiian waters. The sum appropriated shall be utilized for the development of an environmental impact statement or environmental assessment as well as for necessary planning, analysis, and promotion. The environmental impact statement or environmental assessment shall include but not be limited to an assessment of the impacts on various sites which may be used to berth yachts participating in the America's Cup and shall especially address the impact on existing and planned recreational use of each site. Prior to the adoption of any final plans for the development of the necessary facilities required to host the America's Cup, the department of planning and economic development shall receive community input with regards to such plans via scheduled public hearings.

## ACT 20

SECTION 3. The sum appropriated shall be expended by the department of planning and economic development for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 24, 1987.)

## ACT 20

H.B. NO. 1759

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 239-11, Hawaii Revised Statutes, is amended to read as follows:

**“§239-11 Exemption of certain contract carriers.** There shall be exempted and excluded from the measure of the tax imposed by this chapter on the gross income from any contract carrier by water [having a gross weight exceeding ten thousand gross tons] which is engaged primarily in the business of transporting persons [for tourism or sightseeing purposes] between harbors or wharves of the various counties for interisland cruises within the State; provided that such exemption shall be applicable for the period July 1, 1981, to June 30, 1991.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Became law on April 27, 1987, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 21

H.B. NO. 533

A Bill for an Act Relating to Fishing in Certain Waters.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 188-35, Hawaii Revised Statutes, is amended to read as follows:

**“§188-35 Fishing in certain waters. (a)** It is unlawful for any person to fish in or take aquatic life from the waters:

- (1) Of the Waikiki reclamation canal, Oahu;
- (2) Of the drainage canal constructed in connection with Kapiolani Boulevard, Oahu;
- (3) Of the Kapalama drainage canal, Oahu;
- (4) Off Heeia-Kea wharf, Oahu;
- (5) Within that portion of Waialua Bay delineated on the seaward boundary by lines drawn one hundred yards seaward of and parallel to the Haleiwa Harbor Breakwater and one hundred yards seaward of and parallel to the Haleiwa Beach Groin including the extension to the intercept of these lines and the inland boundary consisting of a line drawn ten yards downstream of and parallel to the Anahulu Bridge, Oahu;
- (6) Within that portion of Pokai Bay including the Pokai Boat Harbor and the Waianae Small Boat Harbor delineated on the

seaward boundary by a straight line drawn from Kaneilio Point to Lahilahi Point with the northwestern boundary to be delineated by a straight line extending from the southernmost tip of the point immediately seaward of Waianae High School on a southwest azimuth to the intercept of the seaward boundary extending from Kaneilio Point to Lahilahi Point, Oahu;

- (7) Of the Kapaa and Waikaena canals, Kauai; and
- (8) Within that portion of Kailua Bay, Hawaii, to be delineated by the department of land and natural resources pursuant to chapter 91;

with any device whatsoever, except as provided in this section.

(b) With reference to any of the places or areas named above, any person may at any time fish or take any fish with one line, or one rod and line, provided the line shall not have more than two hooks; or may take crabs with not more than ten nets, provided the nets shall not exceed two feet in diameter; or may take shrimps for bait purposes only with a hand net, provided the net shall not exceed three feet in any dimension; provided that in the Waikiki reclamation canal any person may take up to fifty tabai or mosquito fish, or o'opu akupa, or tilapia or any combination thereof, per day, for noncommercial purposes only, with a single small mesh net, provided that the net including any handle and other attachment thereto shall not exceed three feet in any dimension.

(c) [With a license obtained from the department of land and natural resources and under rules the department may adopt, the] An owner or operator of a fish pond may take pua or other small fish, using nets, with a license obtained from the department of land and natural resources and under rules the department may adopt, for the purpose of stocking the fish pond.

(d) [With a license from the department, commercial] Commercial marine licensees, with a license from the department of land and natural resources, may take nehu [or], iao, or any other species of baitfish as authorized by section 188-45, using nets for bait purposes only.

(e) The department may issue licenses at its discretion and at any time may revoke any or all licenses when, in its judgment, the action is necessary to preserve the stock of fish in the canals or waters."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 27, 1987.)

A Bill for an Act Relating to Corporations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 415-128, Hawaii Revised Statutes, is amended to read as follows:

**"§415-128 Fees for filing documents and issuing certificates.** The following fees shall be paid to the director upon the filing of corporate documents:

## ACT 22

- (1) Articles of incorporation and affidavit of incorporation, 20 cents per \$1,000 authorized capital, \$50 minimum, \$1,000 maximum;
  - (2) Certificate of increase of authorized capital stock, 20 cents per \$1,000 authorized capital increase, \$20 minimum, \$1,000 maximum;
  - (3) Certificate of renewal or extension of corporate existence, same as the filing of articles of incorporation;
  - (4) Certificate of reduction of capital stock, \$15;
  - (5) Certificate of amendment of articles of incorporation, \$10;
  - (6) Agreement of merger or consolidation, \$50;
  - (7) Annual corporation exhibit of domestic and foreign corporations organized for profit, \$10;
  - (8) Certificate of dissolution, \$5;
  - (9) Resolution of issuance of preferred stock, \$10;
  - (10) Certification, 10 cents per page or any portion thereof;
  - (11) Restated articles of incorporation: corporations with an authorized capital of less than \$500,000, \$20; corporations with an authorized capital of \$500,000 or more, \$100;
  - (12) Good standing certificate, \$10;
  - (13) Filing any other statement or report, except an annual report, of a domestic or foreign corporation, \$25;
  - (14) Special handling fee for review of corporation documents, excluding agreement of merger or consolidation, \$40;
  - (15) Special handling fee for review of agreement of merger or consolidation, \$100;
  - (16) Special handling fee for certificates issued by the department, \$10 per certificate;
  - (17) Special handling fee for certification of documents, \$1 per page.]
- (1) Articles of incorporation, \$50;
  - (2) Articles of amendment, \$25;
  - (3) Restated articles of incorporation, \$25;
  - (4) Articles of merger or consolidation, \$100;
  - (5) Articles of merger (subsidiary corporation), \$50;
  - (6) Articles of dissolution, \$25;
  - (7) Annual report of domestic and foreign corporations organized for profit, \$15;
  - (8) Filing any other statement or report, except an annual report, of a domestic or foreign corporation, \$25;
  - (9) Application for a certificate of authority, \$50;
  - (10) Application for a certificate of withdrawal, \$25;
  - (11) Reservation of corporate name, \$10;
  - (12) Transfer of reservation of corporate name, \$10;
  - (13) Good standing certificate, \$15;
  - (14) Special handling fee for review of corporation documents, excluding articles of merger or consolidation, \$40;
  - (15) Special handling fee for review of articles of merger or consolidation, \$100;
  - (16) Special handling fee for certificates issued by the department, \$10 per certificate;
  - (17) Special handling fee for certification of documents, \$1 per page.

All special handling fees shall be credited to the special fund established [pursuant to section 416-97] for use by the department in expediting the processing of documents. At least two temporary business registration assistant I positions shall be paid out of the special fund."



SECTION 2. Section 415B-155, Hawaii Revised Statutes, is amended to read as follows:

**“§415B-155 Fees for filing documents and issuing certificates.** The following fees shall be paid to the director upon the filing of corporate documents:

- [(1) Articles of incorporation of nonprofit corporation, \$10;
- (2) Certificate of amendment and renewal or extension of charter of nonprofit corporation, \$5;
- (3) Annual exhibit of nonprofit domestic and foreign corporations, \$1;
- (4) Agreement of merger or consolidation of nonprofit corporations, \$5; and
- (5) Filing any other statement or report, except an annual report, of a domestic or foreign corporation, \$5.]
- (1) Articles of incorporation, \$25;
- (2) Articles of amendment, \$10;
- (3) Restated articles of incorporation, \$10;
- (4) Articles of merger or consolidation, \$50;
- (5) Articles of dissolution, \$10;
- (6) Annual report of nonprofit domestic and foreign corporations, \$1;
- (7) Filing any other statement or report, except an annual report, of a nonprofit domestic or foreign corporation, \$10;
- (8) Application for a certificate of authority, \$25;
- (9) Application for a certificate of withdrawal, \$10;
- (10) Reservation of corporate name, \$10;
- (11) Transfer of reservation of corporation name, \$10;
- (12) Good standing certificate, \$15;
- (13) Special handling fee for review of corporation documents, excluding articles of merger or consolidation, \$40;
- (14) Special handling fee for review of articles of merger or consolidation, \$100;
- (15) Special handling fee for certificates issued by the department, \$10 per certificate; and
- (16) Special handling fee for certification of documents, \$1 per page.

All special handling fees shall be credited to the special fund established for use by the department in expediting the processing of documents. At least two temporary business registration assistant I positions shall be paid out of the special fund.”

SECTION 3. Section 482-2, Hawaii Revised Statutes, is amended to read as follows:

**“§482-2 Certificate.** (a) Any person desiring to register any print, label, or trademark intended to be attached or applied to goods or manufactured articles or to bottles, boxes, or packages containing the goods or manufactured articles to indicate the name of the manufacturer, and any person desiring to register a service mark, or a trade name, may obtain a certificate of the registration of the print, label, trademark, service mark, or trade name in the manner hereinafter provided.

(b) Before any person may receive a certificate of registration of a print, label, or trademark, the person shall file in the office of the director of commerce and consumer affairs an application for the registration of [such] the print, label, or trademark, with a declaration, certified by the applicant, stating that the applicant is the sole and original proprietor or the assign of

## ACT 22

[such] the proprietor of this print, label, or trademark, and describing the goods or manufactured articles for which the print, label, or trademark is used, and stating the manner in which the print, label, or trademark is used. Before any person may receive a certificate of registration of a service mark or trade name, the person shall file in the office of the director an application for the registration thereof, with a declaration, certified, as aforesaid, stating that the person is the sole and original proprietor of the service mark or trade name, or the assign of the proprietor and setting forth the nature of the business in which the service mark or trade name is used. The application shall be accompanied by two exact copies of the print, label, trademark, service mark, or trade name. Upon filing the application, the applicant shall pay to the director a fee of \$25, of which \$15 shall be deposited in the special fund authorized by [section 416-97,] section 415-128, and the balance deposited to the general fund of the State. A special handling fee of \$10 for expediting registration of a trade name, print, label, trademark, or service mark shall be assessed by the department. All special handling fees shall be credited to the special fund authorized by [section 416-97] section 415-128.”

SECTION 4. Section 482-3, Hawaii Revised Statutes, is amended to read as follows:

**“§482-3 Record, issuance and effect of certificate.** Upon receiving the application accompanied by the fee, the director of commerce and consumer affairs shall cause the print, label, trademark, service mark, or trade name to be recorded and shall issue to the applicant a certificate of registration under the seal of the director; and the certificate of registration shall be constructive notice to all persons of the applicant’s claim of the use of the print, label, trademark, service mark, or trade name throughout the State, for the term of one year from the date thereof; provided that the director shall not register any print, label, trademark, service mark, or trade name which is substantially identical with any registered print, label, trademark, service mark, or trade name or with the name of any corporation or partnership registered in accordance with chapters 416, 418, and 425; provided further that the print, label, trademark, service mark, or trade name is continued in actual use by the applicant in the State or elsewhere in the United States or is registered in the name of the applicant in the patent and trademark office of the United States. The acceptance of an application and issuance of a certificate of registration by the director shall not abrogate or limit any common law or other right of any person to any corporation or partnership name, trade name, or trademark.

The registration of a print, label, trademark, service mark, or trade name may be renewed at any time during a period of its registration for additional periods of ten years from the date of renewal by the filing of an application for renewal of registration in [such] the form as the director may provide. Upon filing the application for renewal the applicant shall pay the director a fee of \$25, of which \$15 shall be deposited in the special fund authorized by [section 416-97] section 415-128, and the balance deposited to the general fund of the State.

The director may make, amend, and repeal such rules as may be necessary to carry out the purposes of this section.”

SECTION 5. The substantive provisions of this Act shall amend any other conflicting Act enacted by the Regular Session of 1987, but nonsubstantive amendments made by this Act shall not supersede any substantive

amendments made to sections 415-128, 415B-155, 482-2, and 482-3, Hawaii Revised Statutes, by any other Act enacted by this Regular Session of 1987.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 1987.

(Approved April 27, 1987.)

## ACT 23

H.B. NO. 858

A Bill for an Act Relating to Autopsies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 841, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§841- Performance of autopsy by pathologist. An autopsy of a deceased person under this chapter shall be performed by an anatomic or forensic pathologist certified as such by the American Board of Pathology.

§841- Assistance among counties. (a) When a coroner of a county with a population of less than 200,000 requires assistance in conducting an autopsy, the coroner may request the assistance of the medical examiner or coroner of a county with a population of 200,000 or more. The medical examiner or coroner of the county with a population of 200,000 or more, if agreeable, may provide the assistance.

(b) The county of the coroner requesting the autopsy shall pay for the expenses incurred by the medical examiner or coroner who provides assistance to another coroner under subsection (a). Expenses for which the requesting county shall pay include traveling expenses incurred by a pathologist to the county requesting the assistance, and expenses for transportation of and the conduct of tests on body tissues and organs sent to the medical examiner or coroner for analysis.”

SECTION 2. Section 841-14, Hawaii Revised Statutes, is amended to read as follows:

“§841-14 Autopsies and further investigations. If, in the opinion of the coroner, or of the coroner’s physician, or of the prosecuting attorney, or of the chief of police (in the city and county of Honolulu), an autopsy of the remains of any human body appearing to have come to death under any of the circumstances set forth in section 841-3 is necessary in the interest of the public safety or welfare, [he] that person shall [perform, or] cause to have performed, such an autopsy. If, in the opinion of the coroner’s physician, a further or additional investigation as to the cause of death is necessary, [he] the coroner’s physician may conduct the same or have the same made, and the expenses thereof shall be paid by the county concerned, and for this purpose, the coroner’s physician shall have the duties and powers conferred upon the coroner or deputy coroner by sections 841-4 to 841-8.

Any law to the contrary notwithstanding, the coroner’s physician or medical examiner of any county (including the city and county of Honolulu) may [perform, or] cause to have performed[,] an autopsy to determine cause of death upon the remains of any human body which is brought into or found

## ACT 24

within the State and which appears to have come to death under any of the circumstances set forth in section 841-3, even though such circumstances may have occurred without the State. The coroner's physician or medical examiner of any county (including the city and county of Honolulu) shall have the right to retain tissues, including fetal material, of the body removed at the time of autopsy to be used for necessary or advisable scientific investigation, including research, teaching, and therapeutic purposes."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 1987.

(Approved April 27, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 24

H.B. NO. 1012

A Bill for an Act Relating to Rental Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 359G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§359G- Rental housing revolving fund.** There is created a rental housing revolving fund. Notwithstanding any law to the contrary, funds appropriated and all moneys received or collected by the authority for the purposes of providing rental housing shall be deposited into the rental housing revolving fund. Funds may be further deposited into the rental housing revolving fund from the dwelling unit revolving fund as prescribed under section 359G-10. The proceeds in the rental housing revolving fund shall be used for the necessary expenses in administering and carrying out a rental housing program, including the development of facilities constructed in conjunction with rental housing projects; provided that priority shall be given to the development and financing of housing projects for the elderly."

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved April 27, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 25

H.B. NO. 1053

A Bill for an Act Relating to Income Maintenance Programs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-53, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The maximum basic needs allowance which the department shall [initially] pay a recipient considering income and resources in accordance with this chapter shall be [\$100 plus an additional \$44 for each additional person whose needs have been taken into account by the department.] as provided in the following schedule:

- (1) \$134 for 1 person;
- (2) \$193 for 2 persons;
- (3) \$251 for 3 persons;
- (4) \$309 for 4 persons;
- (5) \$370 for 5 persons;
- (6) \$428 for 6 persons;
- (7) \$486 for 7 persons;
- (8) \$546 for 8 persons;
- (9) \$604 for 9 persons;
- (10) \$663 for 10 persons;
- (11) \$60 for each additional person.

Beginning January 1, 1978, and on or before January 1 of each odd-numbered year thereafter, the director shall submit a report to the legislature indicating the amount of additional moneys required to implement a cost of living increase for the adjusted basic needs allowance equal to the annual percentage increase, rounded to the nearest dollar:

- (1) In the average weekly wage in covered employment as computed by the director of labor and industrial relations pursuant to section 383-22, or
- (2) In the consumer price index for Hawaii as computed by the United States Department of Labor, whichever is lowest.

The director shall request that such amount be reflected in that portion of the executive budget relating to the department. If additional funds are appropriated for a cost of living adjustment, then the adjusted basic needs allowance shall be adjusted to reflect the appropriation. The department shall pay a recipient the maximum basic needs allowance if the department determines that the recipient's needs are not reduced by the recipient's income or resources.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1987.

(Approved April 27, 1987.)

## ACT 26

H.B. NO. 1340

A Bill for an Act Relating to Elderly Abuse or Neglect.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 349C-1, Hawaii Revised Statutes, is amended to read as follows:

“§349C-1 Definitions. For the purposes of this chapter:

“Elderly abuse or neglect” means actual or threatened physical injury, psychological abuse or neglect, sexual abuse, financial exploitation, negligent treatment, or maltreatment of an elderly person caused by another person.

**ACT 27**

“Elderly person” means any person who is at least [sixty-five] sixty years of age.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

• (Approved April 27, 1987.)

**ACT 27**

H.B. NO. 190

A Bill for an Act Relating to the Public Employees Health Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 87-1, Hawaii Revised Statutes, is amended by amending the definition of “health benefits plan” to read:

- “(8) “Health benefits plan” means (A) a group insurance contract or medical, hospital, surgical, prescribed drugs, vision, or dental service agreement in which a carrier agrees to provide, pay for, arrange for, or reimburse the cost of [health,] medical, hospital, surgical, prescribed drugs, vision, or dental services as determined by the board; or (B) a similar schedule of benefits established by the board and provided through the fund on a noninsured basis;”

SECTION 2. Section 87-4, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution equal to the amount established under chapter 89C or specified in the applicable public sector collective bargaining agreement, whichever is appropriate, for each of their respective employee-beneficiaries and employee-beneficiaries with dependent-beneficiaries,<sup>1</sup> such contributions to be used towards the payment of costs of [hospital, medical, and surgical benefits of] a health benefits plan; provided that the monthly contribution shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county shall not exceed the monthly contribution of a family plan for both of them. [The monthly contribution shall be based upon the HMSA regular plan rates which are approved by the board.]”

2. By amending subsection (d) to read:

“(d) The several counties through their respective departments of finance shall annually reimburse the State no later than December 30 of each fiscal year for their respective pro rata share of the cost of administering the fund for the fiscal year for the benefit of their employee-beneficiaries and dependent-beneficiaries. Each county’s pro rata share shall be determined by allocating the amount appropriated for administering the fund for the fiscal year, after excluding therefrom state and county contributions for [hospital, medical, and surgical benefits, dental benefits,] health and group

life insurance benefits, in the same proportion as the aggregate annual amount of state and county contributions for such benefits as of October 31 of the preceding fiscal year. The amount of any excess or deficiency required to administer the fund shall be subtracted from or added to, as the case may be, the amount due from each county for the succeeding fiscal year.”

SECTION 3. Section 87-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) During the period the health benefits plan selected by an employee-beneficiary is in effect, the employee-beneficiary shall authorize, if allowed under present laws, that his contribution be withheld and transmitted to the fund monthly by the comptroller[, county auditor,] or finance officer from whom he receives his compensation, pension, or retirement pay. If, however, an employee-beneficiary’s contribution to the fund is not withheld and transmitted to the fund, the employee-beneficiary shall pay his monthly contribution (1) directly to the fund by the tenth day of each month, in the case of an employee-beneficiary who normally receives his compensation from the comptroller of the State, or (2) in the case of all other employee-beneficiaries, to the respective [county auditor or] finance officer from whom he normally receives his compensation for transmittal to the fund by the tenth day of each month.”

SECTION 4. Section 89-9, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Negotiations relating to contributions to the Hawaii public employees health fund shall be for the purpose of agreeing upon the amounts which the State and counties shall contribute under section 87-4, toward the payment of the costs for [hospital, medical, surgical, and dental benefits of] a health benefits plan, as defined in section 87-1(8), and group life insurance benefits, and the parties shall not be bound by the amounts contributed under prior agreements; provided that [the provisions of] section 89-11 for the resolution of disputes by way of fact-finding or arbitration shall not be available to resolve impasses or disputes relating to the amounts the State and counties shall contribute to the Hawaii public employees health fund.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 27, 1987.)

Note

1. Hyphen should be underscored.

ACT 28

H.B. NO. 1477

A Bill for an Act Relating to the Militia.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 121-7, Hawaii Revised Statutes, is amended to read as follows:

“§121-7 **Adjutant general; appointment.** The adjutant general shall be the executive head of the department of defense and commanding general of

## ACT 29

the [national guard.] militia of the State. The adjutant general shall be appointed and be subject to removal as set forth in section 26-31. The adjutant general shall serve for the term as set forth in section 6, article V, of the Constitution. No person shall be eligible for appointment as adjutant general unless the person holds or has held a commission of at least a field grade officer, federally recognized as such, or its equivalent in the national guard, state guard, or other branch of the armed forces of this or any other state or territory of the United States, or in the armed forces of the United States or a reserve component thereof and has served as a commissioned officer in one or more of the armed services for at least ten years.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 27, 1987.)

## ACT 29

S.B. NO. 58

A Bill for an Act Relating to the Landlord-Tenant Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 521-71, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Whenever the term of the rental agreement expires, whether by passage of time, by mutual agreement, by the giving of notice as provided in subsection (a) or (b), or by the exercise by the landlord of a right to terminate given under this chapter, if the tenant continues in possession after the date of termination without the landlord’s consent, the tenant shall be liable for and shall pay to the landlord a sum not to exceed twice the monthly rent under the previous rental agreement, computed and prorated on a daily basis, for each day the tenant remains in possession [for any period up to one month. If the tenant remains in possession for a period longer than one month, the tenant shall be liable for and shall pay to the landlord a sum equal to the monthly rent under the previous rental agreement for each additional month or fraction thereof]. The landlord may bring a summary proceeding for recovery of the possession of the dwelling unit at any time during the first sixty days of holdover[, except that the landlord’s acceptance of rent in advance after the first month of holdover shall create a month-to-month tenancy in the absence of an agreement between the parties to the contrary at the time of such acceptance]. Should the landlord fail to commence summary possession proceedings within the first sixty days of the holdover, in the absence of a rental agreement, a month-to-month tenancy at the monthly rent stipulated in the previous rental agreement shall prevail beginning at the end of the first sixty days of holdover.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 11, 1987.)



A Bill for an Act Relating to Public Employees in the Excluded Managerial Compensation Plan.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 89C-2, Hawaii Revised Statutes, is amended to read as follows:

**“§89C-2 Adjustments authorized; limitations, restrictions.** Any provision of law to the contrary notwithstanding, the compensation, hours, terms, and conditions of employment, amounts of contributions by the State and respective counties to the Hawaii public employees health fund, and other benefits for public officers and employees who are excluded from collective bargaining shall be adjusted by the chief executives of the State or counties, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, or the chief justice, as applicable. The chief executives, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, and the chief justice, or their designated representatives, shall determine the adjustments to be made and which excluded officers or employees are to be granted adjustments under this chapter, in accordance with the following guidelines and limitations:

- (1) For excluded officers and employees under the same compensation plans as officers and employees within collective bargaining units, such adjustments shall be not less than those provided under collective bargaining agreements for officers and employees hired on a comparable basis.
- (2) For excluded officers and employees in the excluded managerial compensation plan, such adjustments shall be not less than those provided under collective bargaining to officers and employees in the professional and scientific employees bargaining unit. Alternate adjustments may be granted to officers and employees whose work is related to that of officers and employees in the other optional bargaining units in order to maintain appropriate pay relationships with such officers and employees.
- [(2)] (3) No adjustment in compensation, hours, terms, and conditions of employment, amounts of contributions by the State and respective counties to the Hawaii public employees health fund, or other benefits shall be established which is in conflict with the system of personnel administration based on merit principles and scientific methods governing the classification of positions and the employment conduct, movement, and separation of public officers and employees.
- [(3)] (4) The compensation of officers or employees whose salaries presently are limited or fixed by legislative enactment shall not be adjusted under this chapter, but shall continue to be adjusted by the appointing authority within limits established by law or by legislative enactment.
- [(4)] (5) The compensation of officers or employees, who are not covered under the same compensation plans as officers and employees within collective bargaining units and whose salaries presently are authorized to be fixed by the appointing authority, need not be adjusted under this chapter. The appointing authority may continue to make specific adjustments in the salaries of

ACT 31

individual officers or employees from available funds appropriated.

- [(5)] (6) Adjustments to the amounts of contributions by the State and respective counties to the Hawaii public employees health fund on behalf of officers or employees who are not covered by adjustments made under this chapter shall be made by legislative enactment."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 11, 1987.)

ACT 31

S.B. NO. 323

A Bill for an Act Relating to the Loyalty Oath.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 85-34, Hawaii Revised Statutes, is amended to read as follows:

"§85-34 Waiver of oath [by governor], when allowed. (a) The governor may waive compliance with all or any part of the provisions of this part in respect to the following classes of officers or employees or any portion thereof:

- (1) Officers or employees of the State (including kokuas and voluntary helpers) located or stationed at any hospital, settlement, or place for the care and treatment of persons affected with Hansen's disease;
- (2) Institutional inmate or patient employees or help in state or county institutions;
- (3) Aliens employed by the State or any county;
- (4) Referees, receivers, masters, and jurors;
- (5) Casual and temporary employees, whether on a monthly salary or a per diem basis, and inspectors and clerks of elections.

(b) Notwithstanding subsection (a), the board of regents of the University of Hawaii may waive compliance with all or any part of the provisions of this part in respect to the following classes of officers or employees or any portion thereof:

- (1) Aliens employed by the university; and
- (2) Casual and temporary employees and student helpers of the university, whether on a monthly salary, an hourly wage, or a per diem basis."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 11, 1987.)

## ACT 32

A Bill for an Act Relating to the Public Employees Health Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 87-23, Hawaii Revised Statutes, is amended to read as follows:

**“§87-23 [Determine] Determination of group life insurance plan benefits. Pursuant to section 87-4, the board of trustees shall provide group life insurance plan benefits to employees in the following manner:**

- (1) For those employees who are not participating in a group life insurance program of an employee organization (hereafter “non-participating employees”), the board shall determine a group life insurance benefit plan and eligibility requirements for such benefits based upon the [contribution of \$2.25 per month] amount to be contributed per employee.] under section 87-4(c). Any rate credit or reimbursement from any carrier of any earnings or interest derived from the group life insurance plan of nonparticipating employees shall be used to improve the group life insurance benefits of nonparticipating employees.
- (2) For those employees who participate in a group life insurance program of an employee organization, the board shall [allot \$2.25 per month] pay a monthly contribution for each employee, in the amount determined under section 87-4(c), or the actual monthly cost of the coverage, whichever is less, towards the purchase of group life insurance benefits under the group life insurance program of an employee organization], provided that no employee shall have more than one allotment of \$2.25 per month].
- (3) Paragraphs (1) and (2) notwithstanding, an employee who is participating in a group life insurance program of an employee organization may continue such plan and pay all of the premiums required while [participating] enrolled under paragraph (1) [for which the State shall contribute \$2.25 per month]; provided that no employee shall have more than one [allotment of \$2.25 per month.] contribution from the board per month.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 11, 1987.)

## ACT 33

A Bill for an Act Relating to Mopeds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-151, Hawaii Revised Statutes, is amended to read as follows:

**“§286-151 Implied consent of driver of motor vehicle or moped to submit to testing to determine alcoholic content of blood. (a) Any person who operates a motor vehicle or moped on the public highways of the State shall**

## ACT 33

be deemed to have given consent, subject to this part, to a test approved by the director of transportation of the person's breath or blood for the purpose of determining the alcoholic content of the person's blood.

(b) The test or tests shall be administered at the request of a police officer having reasonable grounds to believe the person driving or in actual physical control of a motor vehicle or moped upon the public highways is under the influence of intoxicating liquor or drugs only after (1) a lawful arrest, and (2) the person has been informed by a police officer of the sanctions of section 286-155.

(c) If there are reasonable grounds to believe that a person is in violation of section 291-4, then such person shall have the option to take a breath or blood test, or both, for the purpose of determining the alcoholic content of that person's blood."

SECTION 2. Section 286-155, Hawaii Revised Statutes, is amended to read as follows:

**"§286-155 Revocation of privilege to drive motor vehicle or moped upon refusal to submit to testing.** (a) If a person under arrest refuses to submit to a breath or blood test, none shall be given, except as provided in section 286-163, but the arresting officer [shall], as soon as practicable, shall submit an affidavit to a district judge of the circuit in which the arrest was made, stating:

- (1) That at the time of the arrest, the arresting officer had reasonable grounds to believe the arrested person had either been driving or was in actual physical control of a motor vehicle or moped upon the public highways while under the influence of intoxicating liquor;
- (2) That the arrested person had been informed of the sanctions of this section; and
- (3) That the person had refused to submit to a breath or blood test.

(b) Upon receipt of the affidavit, the district judge shall hold a hearing as provided in section 286-156, and shall determine whether the statements contained in the affidavit are true and correct. If the district judge finds the statements contained in the affidavit are true, the judge shall revoke the arrested person's license, permit, or any nonresident [operating] privilege to operate a motor vehicle or moped in the State as follows:

- (1) For a first revocation, or any revocation not preceded within a five-year period by a revocation under this section, for a period of twelve months; and
- (2) For any subsequent revocation under this section, for a period not less than two years and not more than five years.

(c) If the arrested person is a resident without a license or permit to operate a motor vehicle or moped in the State, the district judge shall send notice of the results of the hearing to the examiners of drivers of all counties. The examiners of drivers shall deny the person the issuance of a license or permit for the period of revocation imposed by the district judge under subsection (b).

(d) Whenever a court penalizes a person under this section, it shall also require that the person be referred to a substance abuse counselor who has been certified pursuant to section 321-193 for an assessment of the person's alcohol dependence and the need for treatment. The counselor shall submit a report with recommendations to the court. The court may require the person to obtain appropriate treatment. All costs for such assessment or treatment or both shall be borne by the penalized person.

(e) The penalties provided by this section are additional penalties and not substitutes for other penalties provided by law.”

SECTION 3. Section 286-156, Hawaii Revised Statutes, is amended to read as follows:

“§286-156 Hearing before a district judge. A hearing to determine the truth and correctness of an affidavit submitted to a district judge shall be held within twenty days after the district judge has received the affidavit.

The district judge shall hear and determine:

- (1) Whether the arresting officer had reasonable grounds to believe that either the person had been driving or was in actual physical control of a motor vehicle or moped within this State while under the influence of intoxicating liquor;
- (2) Whether the person was lawfully arrested;
- (3) Whether the arresting officer had informed the person of the sanctions of section 286-155; and
- (4) Whether the person refused to submit to a test of the person’s breath or blood.”

SECTION 4. Section 286-161, Hawaii Revised Statutes, is amended to read as follows:

“§286-161 Notice to other states. When it is determined under this part that a nonresident’s privilege to operate a motor vehicle or moped in the State shall be revoked or denied, the chief of police shall inform, in writing, the official in charge of traffic control or public safety of the nonresident’s home state and of any state in which the nonresident has a driver’s license of the action taken.”

SECTION 5. Section 286-162, Hawaii Revised Statutes, is amended to read as follows:

“§286-162 Test results to be collected. The results of any test for alcohol content made upon any person, including any person who has been fatally injured in a traffic accident or upon the driver of a motor vehicle or moped involved in an accident which resulted in another person’s death, shall be sent to the state director of transportation who shall compile the data without revealing the identity of any individual tested. This data shall be available only to the state and county highway safety councils and to other agencies the director of transportation deems necessary and advisable.”

SECTION 6. Section 286-162.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every intoxication control roadblock program shall:

- (1) Require either that all motor vehicles, or mopeds, or both, approaching roadblocks be stopped, or that certain motor vehicles, or mopeds, or both, be stopped by selecting motor vehicles, or mopeds, or both, in a specified numerical sequence or pattern.
- (2) Require that roadblocks be located at fixed locations for a maximum three hour period.
- (3) Provide for the following minimum safety precautions at every roadblock:
  - (A) Proper illumination;
  - (B) Off-road or otherwise safe and secure holding areas for motor vehicles, or mopeds, or both, involved in any roadblock stop;

ACT 33

- (C) Uniformed police officers carrying proper identification;
  - (D) Adequate advance warning of the fact and purpose of the roadblocks, either by sign posts, flares, or other alternative methods; and
  - (E) Termination of roadblocks at the discretion of the police officer in charge where traffic congestion would otherwise result.
- (4) Provide for a sufficient quantity and visibility of uniformed officers and official vehicles to assure speedy compliance with the purpose of the roadblocks and to move traffic with a minimum of inconvenience.”

SECTION 7. Section 291-3.1, Hawaii Revised Statutes, is amended to read as follows:

**“§291-3.1 Consuming or possessing intoxicating liquor while operating motor vehicle[.] or moped.** (a) No person shall consume any intoxicating liquor while operating a motor vehicle or moped upon any public street, road, or highway.

(b) No person shall possess, while operating a motor vehicle or moped upon any public street, road, or highway, any bottle, can, or other receptacle containing any intoxicating liquor which has been opened, or a seal broken, or the contents of which have been partially removed.

(c) This section shall not apply to the living quarters of a trailer or camper.

(d) Any person violating this section shall be guilty of a misdemeanor.”

SECTION 8. Section 291-3.2, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) No person shall consume any intoxicating liquor while a passenger in any motor vehicle or on any moped upon any public street, road, or highway.

(b) No person shall possess, while a passenger in a motor vehicle or on a moped upon any public street, road, or highway, any bottle, can, or other receptacle containing any intoxicating liquor which has been opened, or a seal broken, or the contents of which have been partially removed.”

SECTION 9. Section 291-3.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person shall keep in a motor vehicle, or on a moped when such vehicle or moped is upon any public street, road, or highway or at any scenic lookout, any bottle, can, or other receptacle containing any intoxicating liquor which has been opened, or a seal broken, or the contents of which have been partially removed or fully removed, unless such container is kept in the trunk of the vehicle, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers.”

SECTION 10. This Act does not apply to acts which occurred or proceedings which were begun before its effective date.

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval.

(Approved May 11, 1987.)

## ACT 34

S.B. NO. 1530

A Bill for an Act Relating to Corrections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

“§ - **Restricted access to correctional facilities.** (a) Except for the director and employees of the department of social services and housing, members of the Hawaii paroling authority, and those persons specified in section 353-47, no person shall enter or remain on the grounds of any state correctional facility unless permission to so enter or remain has been obtained from the administrator of the correctional facility, the administrator's designated representatives, or the director.

(b) Signs shall be posted at reasonable intervals along the boundary of correctional facilities, informing the public of the restriction against access provided in subsection (a).

(c) Any person who violates subsection (a) shall be guilty of a misdemeanor.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved May 11, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 35

S.B. NO. 1704

A Bill for an Act Relating to the Hawaii State Guard.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### “CHAPTER HAWAII STATE GUARD

§ -1 **Short title.** This chapter shall be known and may be cited as the “Hawaii State Guard Act”.

§ -2 **Hawaii state guard established.** The Hawaii state guard is established as a component of the militia of the State.

§ -3 **Rules.** The governor shall adopt rules pursuant to section 121-5 governing the recruitment, organization, administration, equipment, facilities, training, and discipline of the Hawaii state guard. Such rules shall, to the extent practicable, conform to regulations governing the national guard

## ACT 35

and shall be consistent with federal law and regulations pertaining to state defense forces.

§ -4 **Composition; enlistment; appointment.** (a) The Hawaii state guard shall consist of persons over the age of eighteen years voluntarily enlisted or appointed therein and such members of the unorganized militia as may be enrolled therein by draft or as otherwise provided by law.

(b) The officers of the Hawaii state guard shall be appointed by the governor.

(c) The governor shall prescribe by rules the qualifications for and terms of enlistment and appointment in the Hawaii state guard. Persons so enlisted or appointed shall subscribe to such oath as may be prescribed by the governor.

§ -5 **Uniform; rank precedence and command.** (a) The Hawaii state guard shall be uniformed. The governor shall prescribe by rules a distinctive uniform and insignia of the Hawaii state guard.

(b) Grades and ranks shall exist in the Hawaii state guard and shall be the same as those prescribed by federal law and regulations to exist in the army national guard. Members of the Hawaii state guard in the same grade shall rank among themselves in the same manner as is prescribed by federal law and regulations for members of the army national guard in like grade.

(c) The senior officer present in any organization or formation of the Hawaii state guard shall command, unless the governor shall designate another commanding officer. When in the active service of the State, an officer of the national guard assigned to any organization or formation of the Hawaii state guard is eligible to command that organization or formation, but an officer of the Hawaii state guard is not eligible to command an organization or formation of the national guard.

§ -6 **Discipline.** (a) The discipline of the Hawaii state guard shall, to the extent practicable, conform to that of the Hawaii army national guard.

(b) When in the active service of the Hawaii state guard, members of the Hawaii state guard are subject to chapter 124A. Members are deemed to be in the active service of the Hawaii state guard from the date and time specified in any order lawfully calling them into such service.

§ -7 **Discharge; dismissal.** (a) Upon expiration of the term of service for which enlisted or appointed, a member of the Hawaii state guard shall be entitled to a discharge; provided that no member shall be discharged by reason of expiration of term of service while employed in the active service of the Hawaii state guard under section -11.

(b) Subject to rules adopted by the governor, a member of the Hawaii state guard may be discharged or dismissed prior to the expiration of the member's term of service for misconduct, inefficiency, personal hardship, or such other cause as the governor may prescribe.

(c) No officer shall be dismissed or discharged under conditions other than honorable, except by sentence of a court-martial or by order of the governor upon recommendation of a board of officers.

(d) Subject to rules adopted by the governor, every discharge of a member of the Hawaii state guard shall reflect the character of the member's service.

§ -8 **Pay and allowances.** (a) When in the active service of the State, members of the Hawaii state guard shall receive from the State the same basic pay and allowance for subsistence as prescribed by federal law and regulations for members of the army national guard, of like grade and length



of service, when in the active service of the United States. Subject to rules adopted by the governor, members may be subsisted in kind in lieu of a monetary allowance therefor.

(b) Subject to rules adopted by the governor, members of the Hawaii state guard when in the active service of the State may be quartered at the expense of the State or paid a monetary allowance in lieu thereof.

**§ -9 Arms and equipment; facilities.** (a) Subject to the availability of funds, the Hawaii state guard shall be armed and equipped as prescribed by the governor.

(b) The governor, on such terms and conditions as may be prescribed by federal law and regulations and deemed acceptable by the governor, may accept arms, equipment, supplies, and facilities made available by the United States or any agency or instrumentality thereof for the use of the Hawaii state guard.

(c) To the extent permitted by federal law and regulations, armories and other facilities of the national guard, and such other state facilities as may be available may be utilized for:

- (1) Storage and maintenance of arms, equipment, and supplies of the Hawaii state guard; and
- (2) Assembly, drill, and instruction of its members;

provided that such use shall not interfere with use of armories or other national guard facilities by the national guard.

**§ -10 Training.** (a) Each organization of the Hawaii state guard shall assemble for training, drill, and instruction as ordered by the governor or the adjutant general.

(b) To the extent authorized and permitted by federal law and regulations, the governor or the adjutant general may:

- (1) Detail officers and members of the national guard to train and instruct the Hawaii state guard; and
- (2) Provide for the attendance of members of the Hawaii state guard at service schools and other courses of training or instruction conducted by the armed forces of the United States.

(c) When actually engaged in training, drill, or instruction prescribed by this section, a member of the Hawaii state guard shall be deemed to be in the active service of the State.

**§ -11 Employment.** Whenever the governor determines that, because of invasion, insurrection, riot, civil disorder, unlawful combination or conspiracy, catastrophe, natural or human caused disaster, or imminent danger thereof, the public safety and order cannot be preserved or the laws cannot be enforced by the civil authorities or the national guard, or as otherwise provided by law, the governor may call the Hawaii state guard, or such part of it as may be required, into the active service of the State for the duration of the condition which required its call.

**§ -12 Federal service.** Nothing in this chapter shall be construed as authorizing the Hawaii state guard or any part thereof to be called, ordered, or in any manner drafted as such into the military service of the United States; provided no person by reason of the person's enlistment or appointment in the Hawaii state guard shall be exempted from military service under any law of the United States.

## ACT 36

§ -13 **Civil groups.** No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons or civil group shall be enlisted in the Hawaii state guard as an organization or unit.

§ -14 **Acceptance of gratuities.** No member of the Hawaii state guard, by reason of membership therein, shall solicit or accept any compensation, gift, donation, gratuity, or thing of value from any source whatever except the pay and allowances provided under this chapter. Any person who violates this section shall be punished as may be directed by non-judicial punishment or a court-martial.

§ -15 **Immunities.** (a) No member of the Hawaii state guard, while in the active service of the State or while going to or returning from the place where the member is required to be while performing that service, shall be arrested on any warrant except for treason or felony, or required to serve upon any jury or posse comitatus.

(b) No member of the Hawaii state guard shall be civilly liable for any act or omission occurring while in the active service of the State if that act or omission shall have been in the line of duty and in compliance with lawful military orders.

§ -16 **Courts-martial; nonjudicial punishment.** Any limitations in chapter 124A to the contrary notwithstanding, whenever this chapter specifically authorizes an act to be punished by court-martial or nonjudicial punishment, the court-martial may be convened or nonjudicial punishment imposed and punishment administered as though the act complained of were a violation of the punitive articles of chapter 124A."

SECTION 2. Chapter 122, Hawaii Revised Statutes, is repealed.

SECTION 3. **Severability.** If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 11, 1987.)

ACT 36

S.B. NO. 1726

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 112, Session Laws of Hawaii 1981, amended section 209 of the Hawaiian Homes Commission Act, 1920, as amended, and added a new section providing for the valuation and purchase of improvements at the surrender or cancellation of a homestead lease. Act 112 is subject to the consent of the U. S. Congress, but has not been submitted for approval because its provisions conflict with subsequent amendments to the Hawaiian Homes Commission Act which were submitted for approval and have been approved of by Congress. Act 112 therefore has not, and cannot, be implemented.

Under section 209 of the Hawaiian Homes Commission Act, if a homestead lease is cancelled or surrendered, or if the lessee dies without leaving a relative qualified to succeed to the lease, the department of Hawaiian home lands is required to appraise the value of the improvements and growing crops, if any, and to pay that amount to the lessee, or in the case of a deceased lessee, to the deceased's designee or estate, less taxes due and any indebtedness to the department.

In 1982, the legislature passed Act 272 which reduced the blood quantum requirement of a lessee's spouse or children in order to succeed to one-quarter Hawaiian. Act 272 was made expressly subject to congressional consent as required under section 4, of the Admission Act. In 1985, the legislature passed Act 137 which also effected certain amendments to section 209 to permit payout of net proceeds to nonqualified spouse or nonqualified children as designated by a deceased lessee. Section 209(a) of the Hawaiian Homes Commission Act, as it appears in volume 1, Hawaii Revised Statutes (1985 Repl.) is the law as passed by Act 137, Session Laws of Hawaii 1985. Act 137, section 3 provides as follows:

“SECTION 3. The amendments made by this Act shall not affect the validity of any amendments to the Hawaiian Homes Commission Act, 1920, as amended, that may be pending before the United States Congress or that may be acted upon by the Congress before or after the effective date of this Act and, upon Congress' consent to such amendments, this Act shall be amended to conform to such amendments as consented to by Congress.”

On October 27, 1986, by House Joint Resolution No. 17, Congress consented to all amendments to the Hawaiian Homes Commission Act, 1920, as amended, up to June 30, 1985, except Act 112, Session Laws of Hawaii 1981.

The purpose of this Act is to repeal Act 112, Session Laws of Hawaii 1981, and to revise the manner by which the department of Hawaiian home lands shall handle the payment of the net proceeds of the value of the leasehold interest whenever a homestead lease is surrendered, cancelled, or terminated by allowing the department to use the Hawaiian home general loan fund to pay net proceeds if the Hawaiian home loan fund does not have sufficient cash. A further purpose of this Act is to provide clarity to section 209 as amended by Act 272, Session Laws of Hawaii 1982, and Act 137, Session Laws of Hawaii 1985.

SECTION 2. Act 112, Session Laws of Hawaii 1981, is repealed.

SECTION 3. Section 209, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

“§209. **Successors to lessees.** (a) Upon the death of the lessee, [his] the lessee's interest in the tract or tracts and the improvements thereon, including growing crops and [agricultural] aquacultural stock (either on the tract or in any collective contract or program to which the lessee is a party by virtue of [his] the lessee's interest in the tract or tracts), shall vest in the relatives of the decedent as provided in this paragraph. From the following relatives of the lessee who are (1) at least one-quarter Hawaiian, husband, wife, or children, or (2) native Hawaiian, widows or widowers of the children, grandchildren, brothers and sisters, widows or widowers of the brothers and sisters, or nieces and nephews, — the lessee shall designate the person or persons to whom [he] the lessee directs [his] the lessee's interest in the tract or tracts to vest upon [his] the lessee's death. The Hawaiian blood requirements shall not apply to the descendants of those who are not native

## ACT 36

Hawaiians but who were entitled to the leased lands under [the provisions of] section 3 of the Act of May 16, 1934 (48 Stat. 777, 779), as amended. In all cases such person or persons need not be [twenty-one] eighteen years of age. Such designation [must] shall be in writing, may be specified at the time of execution of such lease with a right in such lessee in similar manner to change such beneficiary at any time and shall be filed with the department and approved by the department in order to be effective to vest such interests in the successor or successors so named.

In case of the death of any lessee, except as hereinabove provided, who has failed to specify a successor or successors as approved by the department, the department may select from only the following qualified relatives of the decedent:

- (1) Husband or wife;
- (2) If there is no husband or wife, then the children.

The rights to the use and occupancy of the tract or tracts may be made effective as of the date of the death of such lessee.

In the case of the death of a lessee leaving no designated successor or successors, husband, wife, or children qualified to be a lessee of Hawaiian home lands, the land subject to the lease shall resume its status as unleased Hawaiian home lands and the department is authorized to lease such land to a native Hawaiian as provided in this Act.

Upon the death of a lessee who has not designated a successor and who leaves a spouse not qualified to succeed to the lease or children not qualified to succeed to the lease, or upon the death of a lessee leaving no such relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall appraise the value of all such improvements and growing crops or improvements and aquacultural stock, as the case may be, and shall pay to the nonqualified spouse or the nonqualified children as the lessee shall have designated prior to the lessee's death, or to the legal representative of the deceased lessee, or the previous lessee, as the case may be, the value thereof, less any indebtedness to the department, or for taxes, or for any other indebtedness the payment of which has been assured by the department, [from] owed by the deceased lessee or the previous lessee. Such payments shall be made out of the Hawaiian home loan fund and shall be considered an advance therefrom [reimbursable out of payments made] and shall be repaid by the successor or successors to the tract involved. If available cash in the Hawaiian home loan fund is insufficient to make such payments, payments may be advanced from the Hawaiian home general loan fund and shall be repaid by the successor or successors to the tract involved; provided that any repayment for advances made from the Hawaiian home general loan fund shall be at the interest rate established by the department for loans made from the Hawaiian home general loan fund.

Such appraisal shall be made by three appraisers, one of [which] whom shall be named by the department, one by the previous lessee or the legal representative of the deceased lessee, as the case may be, and the third shall be selected by the two appraisers [hereinbefore mentioned] mentioned.

(b) After the cancellation of a lease by the department in accordance with [the provisions of] sections 210 and 216 of this title, or the surrender of a lease by a lessee, the department is authorized to transfer the lease or to issue a new lease to any qualified Hawaiian regardless of whether or not [he] the qualified Hawaiian is related in any way by blood or marriage to the previous lessee.

(c) Should any successor or successors to a tract be a minor or minors, the department may appoint a guardian therefor, subject to the approval of the court of proper jurisdiction. [Such] The guardian shall be authorized to represent the successor or successors in all matters pertaining to the leasehold[;]; provided[,] that [said] the guardian, [shall,] in so representing such successor or successors, shall comply with [the provisions of] this title and the stipulations and provisions contained in the lease, except that [said] the guardian need not be a native Hawaiian as defined in section 201 of this title."

SECTION 4. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (a) to read as follows:

"(a) There are established in the treasury of the State two revolving funds, to be known respectively as the Hawaiian home loan fund and the Hawaiian home general loan fund.

- (1) Hawaiian home loan fund. The moneys in this fund shall be available for the purposes enumerated in section 214 of this Act and for payments provided in section 209 and shall not be expended for any other purpose except as provided in subsection (b)(1) [of this section].

Any interest or other earnings arising out of investments from this fund shall be credited to and deposited into the Hawaiian home operating fund.

- (2) Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, for construction of replacement homes, for home repairs or additions, or for the development and operation of a farm, ranch, or aquaculture operation; moneys transferred from other funds; and installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursements on account of advances, but not including interest on such loans or advances, shall be deposited into this fund. The moneys in the fund shall be used for purposes enumerated in section 214 of this Act[;] and for payments provided in section 209; provided that loans to lessees for repairs to their existing homes and for additions to such homes shall not be in excess of \$15,000; provided further that, in addition to the conditions enumerated in section 215, farm loans shall be subject to the following conditions: to be eligible for a farm loan the applicant shall derive, or present an acceptable plan to derive, a major portion of the applicant's income from farming; farm loans made for the purpose of soil and water conservation shall not exceed \$20,000 and shall be for a term not to exceed ten years. Subsidies and grants or cost-sharing funds entitled and received by the lessee for soil and water conservation purposes shall be assigned to the department for the repayment of the outstanding farm indebtedness; and the lessee shall carry out recommended farm management practices approved by a qualified agricultural agency.

- (A) The department may create an account within this fund to support the guarantee of repayment of loans made by government agencies or private lending institutions to a holder of a lease under section 207(a) of this Act or license issued under section 207(c)(1)(B) of this Act.

- (B) The department may create an account within this fund for moneys borrowed from government agencies or private lending institutions to be used for any of the purposes enumerated in section 214 of this Act. Installments of principal and that part of the interest equal to the interest charged to the department by the lender paid by the lessees on the loans made to them from this account shall be deposited into the same account; any additional interest or other earnings arising out of investments from this account shall be credited to and deposited into the Hawaiian home receipts fund.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 11, 1987.)

ACT 37

S.B. NO. 1737

A Bill for an Act Relating to the Department of Budget and Finance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

“§76-16 Civil service and exemptions. The civil service to which this part applies comprises all positions in the State now existing or hereafter established and embraces all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington Place and eight employees in the office of the lieutenant governor;
- (6) Positions filled by popular vote;

- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, and one law clerk for each judge of the circuit court and the administrative judge of the district court of the first circuit (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); sheriff, first deputy sheriff, and second deputy sheriff; and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor, for which projects federal funds are available;
- (13) Positions filled by inmates, kokuas, and patients of state institutions, and persons with severe physical or mental handicaps participating on the work experience training programs, students, and positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
- (14) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piece-work basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, Article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports

divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of social services and housing either in charge of welfare or such other functions within the department as may be assigned by the director of social services; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; one additional deputy in the department of planning and economic development to perform the duties assigned by the director of planning and economic development and approved by the governor; one additional deputy in the department of budget and finance to perform the duties assigned by the director of finance and approved by the governor; and an administrative assistant to the superintendent of education;

- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that no more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii which require hiring of nutrition program assistants who live in the areas they serve; and
- (23) Positions filled by the severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to safely perform the duties of the positions.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 15, 1987.)



## ACT 38

S.B. NO. 67

A Bill for an Act Relating to Torts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§663- “Ad damnum” clause prohibited.** (a) Notwithstanding any other provision of law, in any action based on tort, including a medical tort as defined in section 671-1, to recover damages for personal injuries or wrongful death, no complaint, counterclaim, cross claim or third party claim shall specify the amount of damages prayed for but shall contain a prayer for general relief, including a statement that the amount of damages is within the minimum jurisdictional limits of the court in which the action is brought.

(b) If any complaint, counterclaim, cross claim or third party claim contains a specified amount of damages, the claim, counterclaim, cross claim or third party claim shall be dismissed by the court without prejudice.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 39

S.B. NO. 81

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that there are certain income and excise tax exemptions for which there are few or no taxpayers who qualify. The purpose of this Act is to repeal those little-used exemptions.

SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The following Internal Revenue Code subchapters, parts of subchapters, sections, subsections, and parts of subsections shall not be operative for the purposes of this chapter, unless otherwise provided:

- (1) Subchapter A (sections 1 to 58) (with respect to determination of tax liability).
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).
- (3) Section 86 (with respect to social security and tier 1 railroad retirement benefits).
- (4) Section 103 (with respect to interest on certain governmental obligations). For treatment, see section 235-7(b).
- (5) Section 103A (with respect to mortgage subsidy bonds).
- (6) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see sections 235-2.4,

- [235-7(a)(10) to (12),] 235-7(a)(9) to (11), and 235-9(a)(2) and (5).
- (7) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3).
  - (8) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
  - (9) Section 169 (with respect to amortization of pollution control facilities). For treatment, see section 235-11.
  - (10) Section 196 (with respect to deduction for certain unused investment credits).
  - (11) Section 221 (with respect to deduction for two-earner married couples).
  - (12) Subchapter B, part VIII (sections 241 to 250) (with respect to special deductions for corporations), except sections 248 (with respect to organizational expenditures) and 249 (with respect to limitation on deduction of bond premium on repurchase). For treatment, see section 235-7(c).
  - (13) Section 269A (with respect to personal service corporations formed or availed of to avoid or evade income tax).
  - (14) Section 280C (with respect to certain expenses for which credits are allowable).
  - (15) Section 280D (with respect to portion of chapter 45 taxes for which credit or refund is allowable under section 6429).
  - (16) Section 291 (with respect to special rules relating to corporate preference items).
  - (17) Section 367 (with respect to foreign corporations).
  - (18) Subchapter F (sections 501 to 528) (with respect to exempt organizations), except as provided in section 235-2.4. For treatment, see section 235-9.
  - (19) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).
  - (20) Subchapter H (sections 581 to 597) (with respect to banking institutions). For treatment, see chapter 241.
  - (21) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).
  - (22) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).
  - (23) Subchapter L (sections 801 to 845) (with respect to insurance companies). For treatment, see sections 431-318 and 431-320.
  - (24) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.
  - (25) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States), except part IV (sections 991 to 997) (with respect to domestic international sales corporations). For treatment, see sections 235-4, 235-5, and 235-7(b).
  - (26) Section 1055 (with respect to redeemable ground rents).
  - (27) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).
  - (28) Section 1201 (with respect to alternative tax). For treatment, see section 235-71(a).
  - (29) Subchapter Q (sections 1301 to 1351) (with respect to readjustment of tax between years and special limitations).
  - (30) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons). For treatment, see chapter 421."

SECTION 3. Section 235-7, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) There shall be excluded from gross income, adjusted gross income, and taxable income:

- (1) Income not subject to taxation by the State under the Constitution and laws of the United States;
- (2) Rights, benefits, and other income exempted from taxation by section 88-91, having to do with the state retirement system, and the rights, benefits, and other income, comparable to the rights, benefits, and other income exempted by section 88-91, under any other public retirement system;
- (3) Any compensation received in the form of a pension for past services, or paid as a weekly benefit for unemployment up to but not in excess of the amount provided by the employment security law but the amount of the exclusion shall not exceed the exclusion allowed under section 85 of the Internal Revenue Code made operative for the purposes of this chapter (it being the intention of this provision to exempt that amount whether paid from a fund or account in the federal or state treasury or paid by an employer or by a trust or other means provided by an employer);
- (4) Compensation paid to a patient affected with Hansen’s disease employed by the State or the United States in any hospital, settlement, or place for the treatment of Hansen’s disease;
- (5) Except as otherwise expressly provided, payments made by the United States or this State, under an act of Congress or a law of this State, which by express provision or administrative regulation or interpretation are exempt from both the normal and surtaxes of the United States, even though not so exempted by the Internal Revenue Code itself;
- [(6) All proceeds received by organizations enumerated under section 237-23(a)(5) to (8), resulting from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
- (7) (6) Any income expressly exempted or excluded from the measure of the tax imposed by this chapter by any other law of the State, it being the intent of this chapter not to repeal or supersede any such express exemption or exclusion;
- [(8) (7) The first \$500 received by each member of the reserve components of the army, navy, air force, marine corps, coast guard of the United States of America, and the Hawaii national guard as compensation for performance of duty as such;
- [(9) (8) Income derived from the operation of ships or aircraft if such income is exempt under the Internal Revenue Code pursuant to the provisions of an income tax treaty or agreement entered into by and between the United States and a foreign country, provided that the tax laws of the local governments of that country reciprocally exempt from the application of all of their net income taxes, the income derived from the operation of ships or aircraft which are documented or registered under the laws of the United States;
- [(10) (9) The value of legal services provided by a prepaid legal service plan to a taxpayer, the taxpayer’s spouse, and the taxpayer’s dependents;

## ACT 39

- [(11)] (10) Amounts paid, directly or indirectly, by a prepaid legal service plan to a taxpayer as payment or reimbursement for the provision of legal services to the taxpayer, the taxpayer's spouse, and the taxpayer's dependents;
- [(12)] (11) Contributions by an employer to a prepaid legal service plan for compensation (through insurance or otherwise) to the employer's employees for the costs of legal services incurred by the employer's employees, their spouses, and their dependents.

(b) There shall be included in gross income, adjusted gross income, and taxable income: (1) unless excluded by this chapter relating to the uniformed services of the United States, cost-of-living allowances and other payments exempted by section 912 of the Internal Revenue Code, but section 119 of the Internal Revenue Code nevertheless shall apply; (2) unless expressly exempted or excluded as provided by subsection [(a)(7) of this section,] (a)(6), interest on the obligations of a State or a political subdivision thereof."

SECTION 4. Section 237-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) This chapter shall not apply to the following persons:
- (1) Banks taxable under chapter 241;
  - (2) Public service companies (as that term is defined in section 239-2), with respect to the gross income, either actual gross income or gross income estimated and adjusted, which is included in the measure of the tax imposed by chapter 239;
  - (3) Public utilities owned and operated by the State or any county or other political subdivision thereof;
  - (4) Insurance companies which pay the State a tax upon their gross premiums under chapter 431;
  - (5) Fraternal benefit societies, orders, or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident, prepaid legal services, or other benefits to the members of such societies, orders, or associations, and to their dependents;
  - (6) Corporations, associations, trusts, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, as well as that of operating senior citizens housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959, as amended by the Housing Act of 1961, the Senior Citizens Housing Act of 1962, the Housing Act of 1964, and the Housing and Urban Development Act of 1965 as well as that of operating a prepaid legal services plan;
  - (7) Business leagues, chambers of commerce, boards of trade, civic leagues, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare which shall include the operation of a prepaid legal service plan, and from which no profit inures to the benefit of any private stockholder or individual;
  - (8) Hospitals, infirmaries, and sanitarium;
  - (9) Cooperative associations now or hereafter incorporated under and pursuant to chapter 421 or 422 and which fully meet the requirements of section 421-23 or section 422-33 (provided that

the exemption shall apply only to the gross income derived from its activities authorized by chapter 421 or 422; and that the exemption shall not relieve any person who receives any proceeds of sale from the association of the duty of returning and paying the tax on the total gross proceeds of the sales on account of which the payment was made, in the same amount and at the same rate as would apply thereto had the sales been made directly by the person, and all such persons shall be so taxable);

- (10) Building and loan associations taxable under chapter 241;
- (11) Persons affected with Hansen's disease and kokuas, with respect to business within the county of Kalawao;
- (12) Corporations, companies, associations, or trusts organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private stockholder or individual (provided that the exemption shall apply only to the activities of such persons in the conduct of cemeteries and not to any activity the primary purpose of which is to produce income, even though the income is to be used for or in the furtherance of the exempt activities of such persons);
- (13) Industrial loan companies taxable under chapter 241; provided that the exemption shall apply only to the income from the "engaging in the business of an industrial loan company" as defined in section 408-2;
- [(14) Businesses which are organized for the purpose of broadcasting radio programs to areas outside of the State to promote the Hawaiian tourist industry and which are solely supported by state funds;
- (15) (14) Development companies taxable under chapter 241; provided that the exemption shall apply only to gross income derived as interest on loans made to borrowers as provided by Title V of the federal Small Business Investment Act of 1958, Public Law 699, as amended;
- [(16) (15) Nonprofit shippers associations operating under part 296 of the Civil Aeronautics Board Economic Regulations;
- [(17) (16) Small business investment companies taxable under chapter 241; provided that the exemption shall apply only to the income derived from activities engaged in as provided by the federal Small Business Investment Act of 1958, Public Law 699, as amended; provided further that the exemption shall not apply to consulting and advisory services engaged in under the first sentence of section 308(b) of Public Law 699."

SECTION 5. Section 237-24, Hawaii Revised Statutes, is amended to read as follows:

"§237-24 Amounts not taxable. This chapter shall not apply to the following amounts:

- (1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured;
- (2) Amounts received (other than amounts paid by reason of death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract;
- (3) Amounts received under any accident insurance or health insurance policy or contract or under workers' compensation acts or employers' liability acts, as compensation for personal injuries,

- death, or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of the personal injuries, death, or sickness;
- (4) The value of all property of every kind and sort acquired by gift, bequest, or devise, and the value of all property acquired by descent or inheritance;
  - (5) Amounts received by any person as compensatory damages for any tort injury to the person, or to the person's character reputation, or received as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties (provided that amounts received as punitive damages for tort injury or breach of contract injury shall be included in gross income);
  - (6) Amounts received as salaries or wages for services rendered by an employee to an employer;
  - (7) Amounts received as alimony and other similar payments and settlements;
  - (8) Amounts collected by distributors as fuel taxes on "liquid fuel" imposed by chapter 243, and the amounts collected by such distributors as a fuel tax imposed by any act of the Congress of the United States;
  - (9) Taxes on liquor imposed by chapter 244D on dealers holding permits under that chapter;
  - (10) The amounts of taxes on tobacco products imposed by chapter 245 on wholesalers or dealers holding licenses under that chapter and selling the products at wholesale, and the amounts of taxes on tobacco products collected from a wholesaler by another where the wholesaler makes separate charges for the amounts so collected from the wholesaler and collects the same from those purchasing from the wholesaler as provided by chapter 245;
  - (11) Federal excise taxes imposed on articles sold at retail and collected from the purchasers thereof and paid to the federal government by the retailer;
  - (12) The amounts of federal taxes under chapter 37 of the Internal Revenue Code, or similar federal taxes, imposed on sugar manufactured in the State, paid by the manufacturer to the federal government;
  - (13) An amount up to, but not in excess of, \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging, or continuing, in any business, trade, activity, occupation, or calling within the State;
  - [(14) Amounts received by an organization enumerated under section 237-23(a)(5) to (8) from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
  - (15)] (14) Amounts received by a producer of sugarcane from the manufacturer to whom the producer sells the sugarcane, where (A) the producer is an independent cane farmer, so classed by the secretary of agriculture under the Sugar Act of 1948 (61 Stat. 922, Chapter 519) as the Act may be amended or supplemented, and (B) the value of the sugar, and other products manufactured from the sugarcane, is included in the measure of the tax levied on the manufacturer under section 237-13(1), and (C) the producer's gross proceeds of sales are dependent upon the actual value of the products manufactured therefrom or the average

value of all similar products manufactured by the manufacturer, and (D) the producer's gross proceeds of sales are reduced by reason of the tax on the value of the manufactured products;

- [(16)] (15) Money paid by the State or eleemosynary child-placing organizations to foster parents for their care of children in foster homes;
- [(17)] (16) Amounts received by a cooperative housing corporation from its shareholders in reimbursement of funds paid by such corporation for lease rental, real property taxes, and other expenses of operating and maintaining the cooperative land and improvements, provided that such a cooperative corporation is a corporation:
  - (A) Having one and only one class of stock outstanding;
  - (B) Each of the stockholders of which is entitled solely by reason of the stockholder's ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building owned or leased by the corporation;
  - (C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation;
- [(18)] (17) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped for a producer or produce dealer on one island of this State to a person, firm, or organization on another island of this State. The terms "agricultural commodity", "producer", and "produce dealer" shall be defined in the same manner as they are defined in section 147-1;
- [(19)] (18) Amounts received from sales of (A) intoxicating liquor as defined in chapter 244D, (B) tobacco products as defined in chapter 245, and (C) agricultural, meat, or fish products grown, raised, or caught in Hawaii, when such sales are made to any person or common carrier in interstate or foreign commerce, or both, whether ocean-going or air, for consumption out-of-state by such person, crew, or passengers on such shipper's vessels or airplanes;
- [(20)] (19) Amounts received by the manager or board of directors of an association of apartment owners of a horizontal property regime established in accordance with chapter 514A in reimbursement of sums paid for common expenses;
- [(21)] (20) Any provision of law to the contrary notwithstanding, exemptions or exclusions from tax under this chapter allowed on or before April 1, 1978, for amounts received by any person or common carrier engaged in interstate or foreign commerce, or both, whether ocean-going or air, shall continue undiminished and be available thereafter to the extent and under the conditions such exemptions or exclusions have theretofore been previously allowed in the State under the provisions of the Constitution of the United States or an act of the Congress of the United States;
- [(22)] (21) Amounts received by an employee benefit plan by way of contributions, dividends, interest, and other income; and amounts received by a nonprofit organization or office, as payments for costs and expenses incurred for the administration of an employee benefit plan. For the purposes of this paragraph,

- “employee benefit plan” means any plan as defined in section 1002(3) of title 29 of the United States Code, as amended;
- [(23)] (22) Amounts received for purchases made with United States Department of Agriculture food coupons if the United States Secretary of Agriculture determines under Public Law 99-198 that the tax imposed by this chapter will disqualify the State of Hawaii from participation in the federal food stamp program. If such a determination is made, and upon being so informed by the United States Secretary of Agriculture, the director of taxation shall immediately inform the general public by public notice of the exempt status;
- [(24)] (23) Amounts received by a hospital, infirmary, medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual. This paragraph shall not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices. As used in this section:  
 “Prescription drugs” are those drugs required to be prescribed by a practitioner licensed under law to administer the drug and which are dispensed and sold by a licensed pharmacist under section 328-16.  
 “Prosthetic device” means any artificial device or appliance used to replace a missing or surgically removed part of the human body prescribed by a licensed practitioner of medicine, osteopathy, or podiatry; provided that “prosthetic device” shall not mean any auditory, ophthalmic, dental, or ocular device or appliance;
- [(25)] (24) Taxes on transient accommodations imposed by chapter 237D and passed on and collected by operators holding certificates of registration under that chapter; and
- [(26)] (25) Amounts received as dues by an unincorporated merchants association from its membership for advertising media, promotional, and advertising costs for the promotion of the association for the benefit of its members as a whole and not for the benefit of an individual member or group of members less than the entire membership.”

SECTION 6. Section 241-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The “entire net income from all sources” shall be determined in the same manner as the “taxable income” of a corporation, as provided by chapter 235, with the following changes and adjustments:

- (1) There is included in gross income interest received upon the obligations of the United States or its possessions, or upon securities issued under the authority of an act of Congress, or upon state, territorial, municipal, county, or other bonds or securities whether or not the income from such obligations, bonds, or securities, is tax free. Section 235-7(a)(1)[.] and (6)[, and (7)] does not apply.
- (2) Section 235-3(c), (d), and (e) does not apply.
- (3) In lieu of section 235-4, it is provided that there shall be excluded the gross income from property owned, trade or business carried on, and other sources outside the State.



- (4) Section 235-5 does not apply. The income excluded pursuant to paragraph (3) shall be determined by an allocation and separate accounting. Losses from property owned outside the State and from other sources outside the State shall not be deducted. Reserves shall be allocated to the State by an application of a fraction, the numerator of which consists of the gross income included in determining the "entire net income from all sources" pursuant to this chapter and the denominator of which consists in the gross income similarly ascertained but without regard to whether from sources within or without the State.
- (5) Deductions connected with income which by this chapter is required to be included in the computation of net income shall be allowed, but deductions connected with income which by this chapter is not to be included in the computation of net income shall not be allowed. Section 235-7(e)(1) does not apply.
- (6) One-half of such amount of capital gain as, under the Internal Revenue Code, is entitled to the alternative tax treatment, is deductible in the determination of net income.
- (7) Section 166 of the Internal Revenue Code does not apply, except the provisions as to the basis for determining the amount of the deduction for a bad debt. Section 593 of the Internal Revenue Code does not apply. In lieu of the cited sections of the Internal Revenue Code, debts ascertained to be worthless and charged off on the books of the taxpayer within the income year may be deducted, or in the discretion of the department of taxation a reasonable addition to a reserve for bad debts; provided that when satisfied that a debt is recoverable only in part, the department may allow the debt to be charged off in part.
- (8) Federal income taxes upon income derived or received from sources in the State may be deducted.
- (9) In the case of any life insurance company (as defined by the Internal Revenue Code), which is determined to be a financial corporation as defined by this chapter, sections 801, 811, and 812 of the Internal Revenue Code do not apply. The total of the deductions allowed by sections 807 and 810 of the Internal Revenue Code shall not exceed the amount of the required interest, as defined by section 807 of the Internal Revenue Code.
- (10) Section 582(c) (with respect to bonds, etc., losses and gains of financial institutions) of the Internal Revenue Code shall be operative for the purposes of this chapter."

SECTION 7. Section 421G-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The membership shares and cooperative fees are interests in real property for purposes of:

- (1) Cooperative housing corporations under section 216 of the federal Internal Revenue Code of 1954, as amended;
- (2) Exemption from state general excise tax under section [237-24(17);] 237-24(16); and
- (3) Exemption from real property tax under sections 246-26 and 246-27(3)."

SECTION 8. Section 237-28, Hawaii Revised Statutes, is repealed.

## ACT 40

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect on July 1, 1987 except for sections 2 and 3, which shall apply to the taxable years beginning after December 31, 1986.

(Approved May 19, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 40

S.B. NO. 82

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that certain tax credits have been authorized to encourage the use of additives in glue, paint, or other solvents to deter their abuse by inhalation. The legislature further finds that this credit has been used very infrequently, and that, where appropriate, the safety of the public would be better served by requiring the additives rather than offering an economic incentive for their use. Accordingly, the legislature concludes that the tax credit for the additives should be repealed.

SECTION 2. Section 235-110.5, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed.<sup>1</sup>

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1986.

(Approved May 19, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 41

S.B. NO. 143

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Article VII, section 6, of the Constitution of the State of Hawaii requires the legislature to provide a tax refund or tax credit when certain factors are met. The legislature finds that these factors have been met for the sixth year in a row and that the legislature is constitutionally required to give a tax credit or a tax refund.

The purpose of this Act is to provide for such an income tax credit to satisfy constitutionally mandated requirements.

SECTION 2. (a) In addition to the excise tax credit allowed under section 235-55.5, Hawaii Revised Statutes, and in addition to any other credit allowed under chapter 235, Hawaii Revised Statutes, there shall be allowed each resident individual taxpayer who qualifies under section 235-

55.5(a), Hawaii Revised Statutes, a general income tax credit of \$1 which shall be deducted from income tax liability computed under chapter 235, Hawaii Revised Statutes. The general income tax credit of \$1 shall be multiplied by the number of qualified exemptions as defined in section 235-55.5(c), Hawaii Revised Statutes, to which the taxpayer is entitled, regardless of adjusted gross income. Section 235-55.5(c), Hawaii Revised Statutes, to the contrary notwithstanding, such qualified exemption shall have been a resident of the State as defined in section 235-1, Hawaii Revised Statutes, for at least nine months whether or not such qualified resident was physically in the State for nine months. For the purposes of this section, multiple exemptions shall not be granted for this credit because of age, or deficiencies in vision, hearing, or other disability. The general income tax credit allowed under this section shall be deducted from income tax liability for the taxable year 1987. Section 235-55.5(d) and (e), Hawaii Revised Statutes, is applicable to this section and incorporated herein to the extent not in conflict with this section.

(b) The credit under this section shall not be available to (1) any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full taxable year; (2) any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full taxable year; or (3) any misdemeanor who has been committed to jail and has been physically confined for the full taxable year.

(c) This section implements the provisions of Article VII, section 6, of the State of Hawaii Constitution enacted by the 1978 Constitutional Convention, which states as follows:

#### “DISPOSITION OF EXCESS REVENUES

Section 6. Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law.”

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1987.)

## ACT 42

S.B. NO. 309

A Bill for an Act Relating to the Hawaii Occupational Safety and Health Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 396-14, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[§396-14]]]~~ **Evidence.** No record or determination of any administrative proceeding under this chapter or any statement or report of any kind obtained [or], received, or prepared in connection with the administration or enforcement of this chapter shall be admitted or used, whether as evidence[,] or as discovery, in any civil action growing out of any matter mentioned in the record, determination, statement, or report other than an action for enforcement or review under this chapter.”

**ACT 43**

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1987.)

**ACT 43**

S.B. NO. 140

A Bill for an Act Relating to Act 347, Session Laws of Hawaii 1986.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Notwithstanding any provision in Act 347, Session Laws of Hawaii 1986, to the contrary, the appropriations for fiscal year 1986-1987 for capital projects listed under section 2 of Act 347, Session Laws of Hawaii 1986, shall be deemed to be in thousands of dollars.

SECTION 2. This Act shall not be construed as affecting the lapsing provision of section 9 of Act 347, Session Laws of Hawaii 1986, or any other provision of Act 347, Session Laws of Hawaii 1986, except as provided under section 1 of this Act.

SECTION 3. This Act shall take effect on July 1, 1987.

(Approved May 19, 1987.)

**ACT 44**

S.B. NO. 310

A Bill for an Act Relating to the Boiler and Elevator Safety Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 397-12, Hawaii Revised Statutes, is amended to read as follows:

“[[[§397-12]] Evidence. No record or determination of any administrative proceeding under this chapter or any statement or report of any kind obtained [or], received, or prepared in connection with the administration or enforcement of this chapter shall be admitted or used, whether as evidence[,] or as discovery, in any civil action growing out of any matter mentioned in the record, determination, statement, or report other than an action for enforcement or review under this chapter.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1987.)

**ACT 45**

H.B. NO. 35

A Bill for an Act Relating to the State Water Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings.** The legislature finds that the water resources of the State of Hawaii are in need of management and regulation. During the past decades, there have been shortages of water and a decline in the ground water levels. Moreover, in recent years, some of Hawaii's waters have been severely polluted by a variety of toxic contaminants. Furthermore, there has been a great deal of uncertainty regarding the status of water rights. With these concerns in mind, the 1978 Constitutional Convention mandated the legislature to devise a statutory solution. Therefore, in acting pursuant to its obligations to implement Article XI, section 7, of the State Constitution, this legislature recognizes, as did the 1978 Constitutional Convention, that the State has an obligation to prevent any further harm by protecting, controlling, and regulating the use of Hawaii's water resources for the benefit of its people.

In enacting this legislation, the legislature acknowledges the farsighted contribution of the late Richard A. Kawakami, Speaker of the House of Representatives of the Fourteenth Legislature, State of Hawaii, who as Chairman of the House Water, Land Use, Development and Hawaiian Affairs Committee from 1971 through 1980 laid the foundation for a State Water Code. His visionary concern for the protection of Hawaii's water resources for all its people predated by many years, the 1978 Hawaii state constitutional convention's amendment to Article XI, section 7, of the Hawaii constitution and the final report of the Legislature's Advisory Study Commission on Water Resources submitted in January, 1985. The enactment of the State Water Code constitutes a legacy from the late Speaker which will benefit not only the citizenry of today but the countless generations yet to come. The legislature can find no greater or more precious monument to the memory of this wise and dedicated public servant than the passage of this Act.

**SECTION 2.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## **“CHAPTER STATE WATER CODE**

### **PART I. ADMINISTRATIVE STRUCTURE**

§ -1 **Short title.** This chapter shall be known and may be cited as the State Water Code.

§ -2 **Declaration of policy.** (a) It is recognized that the waters of the State are held for the benefit of the citizens of the State. It is declared that the people of the State are beneficiaries and have a right to have the waters protected for their use.

(b) There is a need for a program of comprehensive water resources planning to address the problems of supply and conservation of water. The state water use and protection plan, with such future amendments, supplements, and additions as may be necessary, is accepted as the guide for developing and implementing this policy.

(c) The State Water Code shall be liberally interpreted to obtain maximum beneficial use of the waters of the State for purposes such as domestic uses, aquaculture uses, irrigation and other agricultural uses, power development, and commercial and industrial uses. However, adequate provision shall be made for the protection of traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the

## ACT 45

maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the State for municipal uses, public recreation, public water supply, agriculture, and navigation. Such objectives are declared to be in the public interest.

(d) The State Water Code shall be liberally interpreted to protect and improve the quality of waters of the State and to provide that no substance be discharged into such waters without first receiving the necessary treatment or other corrective action. The people of Hawaii have a substantial interest in the prevention, abatement, and control of both new and existing water pollution and in the maintenance of high standards of water quality.

(e) The State Water Code shall be liberally interpreted and applied in a manner which conforms with intentions and plans of the counties in terms of land use planning.

**§ -3 Definitions.** As used in this chapter, unless the context otherwise requires:

“Authorized planned use” means the use or projected use of water by a development that has received the proper state land use designation and county development plan/community plan approvals.

“Board” means the board of land and natural resources.

“Chairperson” means the chairperson of the commission on water resource management.

“Change in use” means any modification or change in water use from or to domestic, municipal, military, agriculture (including agricultural processing), or industrial uses.

“Channel alteration” means: (1) to obstruct, diminish, destroy, modify, or relocate a stream channel; (2) to change the direction of flow of water in a stream channel; (3) to place any material or structures in a stream channel; and (4) to remove any material or structures from a stream channel.

“Commission” means the commission on water resource management.

“Continuous flowing water” means a sufficient flow of water that could provide for migration and movement of fish, and includes those reaches of streams which, in their natural state, normally go dry seasonally at the location of the proposed alteration.

“Department” means the department of land and natural resources.

“Domestic use” means any use of water for individual personal needs and for household purposes such as drinking, bathing, heating, cooking, noncommercial gardening, and sanitation.

“Emergency” means the absence of a sufficient quantity and quality of water in any area whether designated or not which threatens the public health, safety, and welfare as determined by the commission.

“Ground water” means any water found beneath the surface of the earth, whether in perched supply, dike-confined, flowing, or percolating in underground channels or streams, under artesian pressure or not, or otherwise.

“Hydrologic unit” means a surface drainage area or a ground water basin or a combination of the two.

“Impoundment” means any lake, reservoir, pond, or other containment of surface water occupying a bed or depression in the earth’s surface and having a discernible shoreline.

“Instream flow standard” means a quantity or flow of water or depth of water which is required to be present at a specific location in a stream system at certain specified times of the year to protect fishery, wildlife, recreational, aesthetic, scenic, and other beneficial instream uses.

“Instream use” means beneficial uses of stream water for significant purposes which are located in the stream and which are achieved by leaving the water in the stream. Instream uses include, but are not limited to:

- (1) Maintenance of fish and wildlife habitats;
- (2) Outdoor recreational activities;
- (3) Maintenance of ecosystems such as estuaries, wetlands, and stream vegetation;
- (4) Aesthetic values such as waterfalls and scenic waterways;
- (5) Navigation;
- (6) Instream hydropower generation;
- (7) Maintenance of water quality;
- (8) The conveyance of irrigation and domestic water supplies to downstream points of diversion; and
- (9) The protection of traditional and customary Hawaiian rights.

“Interim instream flow standard” means a temporary instream flow standard of immediate applicability, adopted by the commission without the necessity of a public hearing, and terminating upon the establishment of an instream flow standard.

“Municipal use” means the domestic, industrial, and commercial use of water through public services available to persons of a county for the promotion and protection of their health, comfort, and safety, for the protection of property from fire, and for the purposes listed under the term “domestic use”.

“Noninstream use” means the use of stream water that is diverted or removed from its stream channel and includes the use of stream water outside of the channel for domestic, agricultural, and industrial purposes.

“Nonregulated use” means any use of water which is exempted from regulation by the provisions of this code.

“Person” means any and all persons, natural or artificial, including an individual, firm, association, organization, partnership, business trust, corporation, company, the United States of America, the State of Hawaii, and all political subdivisions, municipalities, and public agencies thereof.

“Reasonable-beneficial use” means the use of water in such a quantity as is necessary for economic and efficient utilization, for a purpose, and in a manner which is both reasonable and consistent with the state and county land use plans and the public interest.

“Stream” means any river, creek, slough, or natural watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. The fact that some parts of the bed or channel have been dredged or improved does not prevent the watercourse from being a stream.

“Stream channel” means a natural or artificial watercourse with a definite bed and banks which periodically or continuously contains flowing water. The channel referred to is that which exists at the present time, regardless of where the channel may have been located at any time in the past.

“Stream diversion” means the act of removing water from a stream into a channel, pipeline, or other conduit.

“Stream reach” means a segment of a stream channel having a defined upstream and downstream point.

“Stream system” means the aggregate of water features comprising or associated with a stream, including the stream itself and its tributaries, headwaters, ponds, wetlands, and estuary.

“Surface water” means both contained surface water—that is, water upon the surface of the earth in bounds created naturally or artificially

## ACT 45

including, but not limited to, streams, other watercourses, lakes, reservoirs, and coastal waters subject to state jurisdiction—and diffused surface water—that is, water occurring upon the surface of the ground other than in contained waterbodies. Water from natural springs is surface water when it exits from the spring onto the earth's surface.

“Sustainable yield” means the maximum rate at which water may be withdrawn from a water source without impairing the utility or quality of the water source as determined by the commission.

“Time of withdrawal or diversion” means, in view of the nature, manner, and purposes of a reasonable and beneficial use of water, the most accurate method of describing the time when the water is withdrawn or diverted, including description in terms of hours, days, weeks, months, or physical, operational, or other conditions.

“Water” or “waters of the State” means any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground.

“Water management area” means a geographic area which has been designated pursuant to section -41 as requiring management of the ground or surface water resource, or both.

“Watercourse” means a stream and any canal, ditch, or other artificial watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted.

“Water source” means a place within or from which water is or may be developed, including but not limited to: (1) generally, an area such as a watershed defined by topographic boundaries, or a definitive ground water body; and (2) specifically, a particular stream, other surface water body, spring, tunnel, or well or related combination thereof.

“Well” means an artificial excavation or opening into the ground, or an artificial enlargement of a natural opening by which ground water is drawn or is or may be used or can be made to be usable to supply reasonable and beneficial uses within the State.

**§ -4 Scope.** (a) All waters of the State are subject to regulation under the provisions of this chapter unless specifically exempted. No provision of this chapter shall apply to coastal waters. Nothing in this chapter to the contrary shall restrict the planning or zoning power of any county under chapter 46.

(b) No state or county government agency may enforce any statute, rule, or order affecting the waters of the State controlled under the provisions of this chapter, whether enacted or promulgated before or after the effective date of this chapter, inconsistent with the provisions of this chapter. Nothing in this chapter to the contrary shall restrict the power of any county to plan or zone as provided in chapter 46.

(c) No state or county government agency or other person having the power of eminent domain or condemnation under the laws of the State, may exercise the power with respect to condemning property if the condemnation will materially affect water resources in the State, without the written permission of the commission.

(d) No right, title, or interest in the use of any water resources of the State can be acquired by prescription.

**§ -5 General powers and duties.** The general administration of the state water code shall rest with the commission on water resource management. In addition to its other powers and duties, the commission:



- (1) Shall carry out topographic surveys, research, and investigations into all aspects of water use and water quality.
- (2) Shall designate water management areas for regulation under this chapter where the commission, after the research and investigations mentioned in paragraph (1), shall consult with the appropriate county council and county water agency, and after public hearing and published notice, finds that the water resources of the areas are being threatened by existing or proposed withdrawals of water.
- (3) Shall establish an instream use protection program designed to protect, enhance, and reestablish, where practicable, beneficial instream uses of water in the State.
- (4) May contract and cooperate with the various agencies of the federal government and with state and local administrative and governmental agencies or private persons.
- (5) May enter, after obtaining the consent of the property owner, at all reasonable times upon any property other than dwelling places for the purposes of conducting investigations and studies, or enforcing any of the provisions of this code, being liable, however, for actual damage done. If consent cannot be obtained, reasonable notice shall be given prior to entry.
- (6) Shall cooperate with federal agencies, other state agencies, county or other local governmental organizations, and all other public and private agencies created for the purpose of utilizing and conserving the waters of the State, and assist such organizations and agencies in coordinating the use of their facilities and participate in the exchange of ideas, knowledge, and data with such organizations and agencies. For this purpose the commission shall maintain an advisory staff of experts.
- (7) Shall prepare, publish, and issue such printed pamphlets and bulletins as the commission deems necessary for the dissemination of information to the public concerning its activities.
- (8) May appoint and remove agents and employees including hearing officers, specialists, and consultants necessary to carry out the purposes of this chapter may be engaged by the commission without regard to the requirements of chapters 76 and 77 and section 78-1.
- (9) May acquire, lease, and dispose of such real and personal property as may be necessary in the performance of its functions, including the acquisition of real property for the purpose of conserving and protecting water and water related resources as provided in section -14.
- (10) Shall identify, by continuing study, those areas of the State where salt water intrusion is a threat to fresh water resources and report its findings to the appropriate county mayor and council and the public.
- (11) Shall provide such coordination, cooperation, or approval necessary to the effectuation of any plan or project of the federal government in connection with or concerning the waters of the State. The commission shall approve or disapprove such federal plans or projects on behalf of the State. No other agency or department of the State shall assume the duties delegated to the commission under this paragraph, except that the department of health shall continue to exercise such powers vested in it with respect to water quality, and except that the department of

- planning and economic development shall continue to carry out its duties and responsibilities under chapter 205A.
- (12) Plan and coordinate programs for the development, conservation, protection, control, and regulation of water resources based upon the best available information, and in cooperation with federal agencies, other state agencies, county or other local governmental organizations, and other public and private agencies created for the utilization and conservation of water.
  - (13) Shall catalog and maintain an inventory of all water uses and water resources.

**§ -6 Deputy to the chairperson of the commission for water resource management.** (a) There shall be a first deputy to the chairperson of the commission for water resource management (“deputy for water resource management”) who shall be in addition to any other first deputy to the chairperson as the chairperson of the board of land and natural resources.<sup>1</sup> The deputy shall have experience in the area of water resources and shall be appointed by the chairperson with the approval of a majority of the commission.

(b) The duties of the deputy for water resource management shall be to administer and implement, under the direction of the commission, the state water code and all rules, and other directives promulgated in accordance therewith by the commission. Nothing in this provision shall be construed as limiting the authority of the commission as to matters regarding water resources.

(c) The position of deputy for water resource management is not subject to chapters 76 and 77.

(d) The salary of the deputy for water resource management shall be as provided in section 26-53 for first deputies or first assistants to the head of any department.

**§ -7 Commission on water resource management.** (a) There is established within the department a commission on water resource management consisting of six members which shall have exclusive jurisdiction and final authority in all matters relating to implementation and administration of the state water code, except as otherwise specifically provided in this chapter.

(b) Four members shall be appointed by the governor subject to confirmation by the senate, in a manner prescribed in subsection (d). Each member shall have substantial experience in the area of water resource management. The chairperson of the board of land and natural resources shall be the chairperson of the commission. The director of health shall serve as an ex-officio voting member.

(c) The members of the commission shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(d) In appointing a member to the commission, the governor shall select from a list submitted by a nominating committee. The nominating committee shall be composed of four individuals chosen as follows: two persons appointed by the governor; one person appointed by the president of the senate; and one person appointed by the speaker of the house. The committee shall solicit applications and send to the governor the names of at least three individuals for each open position.

(e) Except as otherwise provided in this chapter, the commission shall be subject to sections 26-34, 26-35, and 26-36.

**§ -8 Adoption of rules concerning water resources by the commission.** The commission shall adopt and enforce such rules as may be necessary or convenient to administer this chapter. The initial set of rules, subject to later amendment, revisions, or additions, shall be adopted no later than two years after the effective date of this chapter. Rules shall be adopted in conformity with chapter 91.

**§ -9 Proceedings before the commission concerning water resources.** All proceedings before the commission concerning the enforcement or application of any provision of this chapter or any rule adopted pursuant thereto, or the issuance, modification, or revocation of any permit or license under this code by the commission, shall be conducted in accordance with chapter 91. Hearings regarding particular water resources shall be conducted on the island where those water resources are located.

**§ -10 Dispute resolution.** The commission shall have jurisdiction statewide to hear any dispute regarding water resource protection, water permits, or constitutionally protected water interests, or where there is insufficient water to meet competing needs for water, whether or not the area involved has been designated as a water management area under this chapter. The final decision on any matter shall be made by the commission.

**§ -11 Hearings officers.** (a) The chairperson may appoint hearings officers, not subject to chapters 76 and 77, to hear and reach a preliminary decision on any matter concerning the implementation or administration of the state water code which the commission may refer to the hearings officers by rule or otherwise.

(b) In assigning matters to hearings officers, the chairperson shall make the assignments in a manner which ensures that hearings officers will develop familiarity and expertise with given geographic areas.

(c) In conducting a hearing on any matter referred by the commission, a hearings officer shall solicit and consider the views of the appropriate county officials responsible for planning, economic development, and resource management and such other county officials and others as the commission shall direct. Any affected county agency shall be admitted as a party upon request.

(d) Each hearings officer is deemed to be an agent of the commission with all powers associated with such designation.

(e) In order to facilitate dispute resolution, the commission may employ mediation methods where practicable including the use of masters.

(f) The commission shall adjudicate disputes where there is insufficient water to meet competing needs.

**§ -12 Judicial review of rules and orders of the commission concerning the water code.** Judicial review of rules and orders of the commission under this chapter shall be governed by chapter 91. Trial de novo is not allowed on review of commission actions under this chapter.

**§ -13 Citizen complaints.** The commission shall adopt, pursuant to chapter 91, procedural rules for the processing of citizen complaints including the right of appeal to the commission. If any person files a complaint with the commission that any other person is wasting or polluting water or is making a diversion, withdrawal, impoundment, consumptive use of waters or any other activity occurring within or outside of a water management area, not expressly exempted under this code, without a permit where one is required, the commission shall cause an investigation to be made, take appropriate action, and notify the complainant thereof.

## ACT 45

§ -14 **Acquisition of real property.** (a) The legislature declares it to be necessary for the public health and welfare that water and water related resources be conserved and protected. The acquisition of real property for this objective shall constitute a public purpose for which public funds may be expended.

(b) The commission may acquire real property and easements by purchase, gift, devise, lease, eminent domain, or otherwise for flood control, water management, or water and water-related resource conservation.

(c) Land, water areas, and related resources which may be acquired for this purpose include, but are not limited to, streams and other water-courses, parks and recreation areas, beaches, submerged lands, and other open areas, as well as necessary access sites and rights-of-way.

(d) This section does not limit the exercise of similar powers delegated by statute to any state or local government agency. This section is not intended to limit, in any way, the powers of the commission in regards to the acquisition of real property under any other statute.

§ -15 **Penalties and common law remedies.** (a) The commission may enforce its rules and orders adopted pursuant to this chapter by suit for injunction or for damages or both.

(b) Any person who violates any provision of this chapter may be subject to a fine imposed by the commission. Such fine shall not exceed \$1,000. For a continuing offense, each day during which the offense is committed is a separate violation.

(c) No provision of this chapter shall bar the right of any injured person to seek other legal or equitable relief against a violator of this chapter.

§ -16 **Severability.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid, this invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

## PART II. REPORTS OF WATER USE

§ -26 **Filing of declaration.** (a) Any person making a use of water in any area of the State shall file a declaration of the person's use with the commission within one year from the effective date of rules adopted to implement this chapter.

(b) When the commission requires filing of declarations by rules, it shall cause notice of the rule to be given by publication in a newspaper of statewide circulation for filings in the city and county of Honolulu and by publication in a newspaper of areawide or countywide circulation and in a newspaper of statewide circulation for filings in counties other than the city and county of Honolulu. The commission shall also cause notice of the rules to be given by mail to any person required to file of whom the commission has or could readily obtain knowledge or who has requested mailed notice to be given when the commission adopts rules requiring the filing of declarations.

(c) The declarations shall be in such form and contain such information as the commission by rule prescribes, including the quantity of water used, the purpose or manner of the use, the time of taking the water, and the point of withdrawal or diversion of the water. Each declaration shall contain a statement, signed and sworn to by the person required to file the declaration, or by some other person duly authorized in the person's behalf, to the effect that the contents thereof are true to the best of the person's knowledge and belief.

(d) If no declaration is filed, the commission, in its discretion, may conclusively determine the extent of the uses required of declaration.

(e) The commission shall act upon a declaration within six months after its filing.

**§ -27 Issuance of certificate.** (a) When a declaration has been filed in accordance with this section and the commission has determined that the use declared is a reasonable, beneficial use, the commission shall issue a certificate describing the use. The certificate shall be deemed to constitute a description of the use declared. With respect to certificates for water use, the confirmed usage shall be recognized by the commission in resolving claims relating to existing water rights and uses including appurtenant rights, riparian and correlative use.

(b) The commission shall hold a hearing upon the request of any person adversely affected by the certification or the refusal to certify any water use.

(c) Whenever a certified use of water is terminated, the owner of the certificate shall file a report with the commission, providing all information prescribed in the rules of the commission.

### PART III. HAWAII WATER PLAN

**§ -31 Hawaii water plan.** (a) The Hawaii water plan shall consist of four parts: (1) a water resource protection plan which shall be prepared by the water resources commission; (2) water use and development plans for each county which shall be prepared by each separate county and adopted by ordinance, setting forth the allocation of water to land use in that county; (3) a state water project plan which shall be prepared by the agency which has jurisdiction over such projects in conjunction with other state agencies; and (4) a water quality plan which shall be prepared by the department of health.

(b) All water use and development plans shall be prepared in a manner consistent with the following conditions:

- (1) Each water use and development plan shall be consistent with the water resource protection and quality plan.
- (2) Each water use and development plan and the State water projects plan shall be consistent with the respective county land use plans and policies including general plan and zoning as determined by each respective county.
- (3) The water use and development plan for each county shall also be consistent with the state land use classification and policies.
- (4) The cost to develop the initial water use and development plan for each county shall be funded by the State in an amount not exceeding \$150,000 per county.
- (5) The cost of maintaining the water use and development plan shall be borne by the counties; state water capital improvement funds appropriated to the counties shall be deemed to satisfy Article VIII, section 5 of the State Constitution.
- (6) Each county in order to be eligible for state appropriations for county water projects must have developed an acceptable water use and development plan within the time frame established by this chapter.

(c) To prepare the water resources protection and quality plan, the commission shall: study and inventory the existing water resources of the State and the means and methods of conserving and augmenting such water resources; review existing and contemplated needs and uses of water including state and county land use plans and policies and study their effect on

## ACT 45

the environment, procreation of fish and wildlife, and water quality; study the quantity and quality of water needed for existing and contemplated uses, including irrigation, power development, geothermal power, and municipal uses; and study such other related matters as drainage, reclamation, flood hazards, floodplain zoning, dam safety, and selection of reservoir sites, as they relate to the protection, conservation, quantity, and quality of water.

The water resource protection plan shall include, but not be limited to:

- (1) Nature and occurrence of water resources in the State;
- (2) Hydrologic units and their characteristics, including the quantity and quality of available resource, requirements for beneficial instream uses and environmental protection, desirable uses worthy of preservation by permit, and undesirable uses for which permits may be denied;
- (3) Existing and contemplated uses of water, as identified in the water use and development plans of the State and the counties, their impact on the resource, and their consistency with objectives and policies established in the water resource protection quality plan;
- (4) Programs to conserve, augment, and protect the water resource; and
- (5) Other elements necessary or desirable for inclusion in the plan.

Hereafter, the commission in coordination with the counties and the department of health shall formulate an integrated coordinated program for the protection, conservation, and management of the waters in each county based on the above studies. This program, with such amendments, supplements, and additions as may be necessary, shall be known as the water resource protection and quality plan.

Hereafter, each county shall prepare a water use and development plan and the appropriate state agency shall prepare the state water projects plan. Each county water use and development plan shall include but not be limited to:

- (1) Status of water and related land development including an inventory of existing water uses for domestic, municipal, and industrial users, agriculture, aquaculture, hydropower development, drainage, reuse, reclamation, recharge, and resulting problems and constraints;
  - (2) Future land uses and related water needs; and
  - (3) Regional plans for water developments including recommended and alternative plans, costs, adequacy of plans, and relationship to water resource protection and quality plan.
- (d) The Hawaii water plan shall be directed toward the achievement of the following objectives:
- (1) The attainment of maximum reasonable-beneficial use of water for such purposes as those referred to in subsection (a);
  - (2) The proper conservation and development of the waters of the State;
  - (3) The control of the waters of the State for such public purposes as navigation, drainage, sanitation, and flood control;
  - (4) The attainment of adequate water quality as expressed in the state water protection and quality plan; and
  - (5) The implementation of the water resources policies expressed in section -2.

(e) The Hawaii water plan shall divide each county into sections which shall each conform as nearly as practicable to a hydrologic unit. The board shall describe and inventory:

- (1) All water resources and systems in each hydrologic unit;
  - (2) All presently exercised uses;
  - (3) The quantity of water not presently used within that hydrologic unit; and
  - (4) Potential threats to water resources, both current and future.
- (f) Within each hydrologic unit the commission shall establish the

following:

- (1) An instream use and protection program for the surface water-courses in the area.
- (2) Sustainable yield. The sustainable yield shall be determined by the commission using the best information available and shall be reviewed periodically. Where appropriate the sustainable yield may be determined to reflect seasonal variation.

(g) The commission shall condition permits under part IV of this chapter in such a manner as to protect instream flows and maintain sustainable yields of groundwater established under this section.

(h) The commission shall give careful consideration to the requirements of public recreation, the protection of the environment, and the procreation of fish and wildlife. The commission may prohibit or restrict other future uses on certain designated streams which may be inconsistent with these objectives.

(i) The commission may designate certain uses in connection with a particular source of supply which, because of the nature of the activity or the amount of water required, would constitute an undesirable use for which the commission may deny a permit under the provisions of part IV.

(j) The commission may also designate certain uses in connection with a particular source of supply which, because of the nature of the activity or amount of water required, would result in an enhancement or improvement of the water resources of the area. Such uses shall be preferred over other uses in any action pursuant to sections -50(h) and -54.

(k) The commission may add to the Hawaii water plan any other information, directions, or objectives it feels necessary or desirable for the guidance of the counties in the administration and enforcement of this chapter.

(l) In formulating or revising the plans, each county and the commission shall consult with and carefully evaluate the recommendations of concerned federal, state, and county agencies.

(m) The commission shall not adopt, approve, or modify any portion of the Hawaii water plan which affects a county or any portion thereof without first holding a public hearing on the matter on the island on which the water resources are located. At least ninety days in advance of such hearing, the commission shall notify the affected county and shall give notice of such hearing by publication within the affected region and statewide.

Each county shall update and modify its water use and development plans as necessary to maintain consistency with its zoning and land use policies.

**§ -32 Coordination.** (a) Respective portions of the water resource protection and quality plan, and the water use and development plans of each county, shall be developed together to achieve maximum coordination.

(b) The development of the Hawaii water plan or any portion thereof shall proceed in coordination with and with attention to the Hawaii state plan described in chapter 226.

(c) The Hawaii water plan and its constituent parts, except for the water quality plan, shall be adopted by the commission not later than three years from the effective date of this chapter. The commission shall receive the water quality plan from the department of health and incorporate this part in the Hawaii water plan.

#### PART IV. REGULATION OF WATER USE

§ -41 **Designation of water management area.** (a) When it can be reasonably determined, after conducting scientific investigations and research, that the water resources in an area may be threatened by existing or proposed withdrawals or diversions of water, the commission shall designate the area for the purpose of establishing administrative control over the withdrawals and diversions of ground and surface waters in the area to ensure reasonable-beneficial use of the water resources in the public interest.

(b) The designation of a water management area by the commission may be initiated upon recommendation by the chairperson or by written petition. It shall be the duty of the chairperson to make recommendations when it is desirable or necessary to designate an area and there is factual data for a decision by the commission. The chairperson, after consultation with the appropriate county mayor and county water board, shall act upon the petition by making a recommendation for or against the proposed designation to the commission within sixty days after receipt of the petition or such additional time as may be reasonably necessary to determine that there is factual data to warrant the proposed designation.

(c) Designated ground water areas established under chapter 177, the Ground Water Use Act, and remaining in effect at the effective date of this chapter shall continue as water management areas.

§ -42 **Notice; public hearing required.** When a recommendation for designation of a water management area has been accepted, the commission shall hold a public hearing at a location in the vicinity of the area proposed for designation and publish a notice of the hearing setting forth: a description of the land area proposed to be designated in terms of appropriate legal subdivisions and tax map keys; the purpose of the public hearing; and the time, date, and place of the public hearing where written or oral testimony may be submitted and heard. The notice shall be published once each week for three successive weeks in a countywide newspaper of general circulation in the appropriate county and the last publication shall be not less than ten days nor more than thirty days before the date set for the hearing. Publication of the notice of public hearing shall be considered as sufficient notice to all landowners and water users who might be affected by the proposed designation.

§ -43 **Investigations required.** Before any proposed water management area is designated by the commission, the chairperson may conduct, cooperate with the appropriate federal or county water agency in conducting, or administer contracts for the conduct of, any scientific investigation or study deemed necessary for the commission to make a decision to designate a water management area.

In connection with such investigation or study, the chairperson from time to time may require reports from water users as to the amount of water being withdrawn and as to the manner and extent of the beneficial use. Such reports shall be made on forms furnished by the department.



§ -44 **Ground water criteria for designation.** In designating an area for water use regulation, the commission shall consider the following:

- (1) Whether an increase in water use or authorized planned use may cause the maximum rate of withdrawal from the ground water source to reach ninety per cent of the sustainable yield of the proposed water management area;
- (2) There is an actual or threatened water quality degradation as determined by the department of health;
- (3) Whether regulation is necessary to preserve the diminishing ground water supply for future needs, as evidenced by excessively declining ground water levels;
- (4) Whether the rates, times, spatial patterns, or depths of existing withdrawals of ground water are endangering the stability or optimum development of the ground water body due to upcoming or encroachment of salt water;
- (5) Whether the chloride contents of existing wells are increasing to levels which materially reduce the value of their existing uses;
- (6) Whether excessive preventable waste of water is occurring;
- (7) Serious disputes respecting the use of ground water resources are occurring; or
- (8) Whether water development projects that have received any federal, state, or county approval may result, in the opinion of the commission, in one of the above conditions.

Notwithstanding an imminent designation of a water management area conditioned on a rise in the rate of ground water withdrawal to a level of ninety per cent of the area's sustainable yield, the commission, when such level reaches the eighty per cent level of the sustainable yield, may invite the participation of water users in the affected area to an informational hearing for the purposes of assessing the ground water situation and devising mitigative measures.

§ -45 **Surface water criteria for designation.** In designating an area for water use regulation, the commission shall consider the following:

- (1) Whether regulation is necessary to preserve the diminishing surface water supply for future needs, as evidenced by excessively declining surface water levels, not related to rainfall variations, or increasing or proposed diversions of surface waters to levels which may detrimentally affect existing instream uses or prior existing off stream uses;
- (2) Whether the diversions of stream waters are reducing the capacity of the stream to assimilate pollutants to an extent which adversely affects public health or existing instream uses; or
- (3) Serious disputes respecting the use of surface water resources are occurring.

§ -46 **Findings of fact; decision of commission.** After public hearing and any investigations deemed necessary have been completed, the chairperson, after consultation with the appropriate county council and county water board, shall make a recommendation to the commission for decision. If the commission decides to designate a water management area, it shall cause a notice of its decision to be published in a newspaper of general circulation in the appropriate county and when so published its decision shall be final unless judicially appealed.

§ -47 **Modifying and rescinding designated areas.** The modification of the boundaries or the rescinding of existing water management areas by

## ACT 45

the commission may be initiated by the chairperson or by a petition to the commission by any person with proper standing. The procedure for modifying the boundaries of an existing water management area or for rescinding an existing water management area shall be substantially similar to that for the designation of a water management area.

**§ -48 Permits required.** (a) No person shall make any withdrawal, diversion, impoundment, or consumptive use of water in any designated water management area without first obtaining a permit from the commission. However, no permit shall be required for domestic consumption of water by individual users, and no permit shall be required for the use of a catchment system to gather water. An existing use in newly designated areas may be continued until such time as the commission has acted upon the application subject to compliance with section -51.

(b) In its regulation of water resources in designated water management areas, the commission shall delegate to the county boards of water supply the authority to allocate the use of water for municipal purposes, subject to the limits of water supply allocated to the county boards of water supply in their role as water purveyors.

**§ -49 Conditions for a permit.** (a) To obtain a permit pursuant to this part, the applicant shall establish that the proposed use of water:

- (1) Can be accommodated with the available water source;
- (2) Is a reasonable-beneficial use as defined in section -3;
- (3) Will not interfere with any existing legal use of water;
- (4) Is consistent with the public interest;
- (5) Is consistent with state and county general plans and land use designations; and
- (6) Is consistent with county land use plans and policies.

(b) Within sixty days after receipt of a notice of a permit application, the county shall inform the commission if the proposed use is inconsistent with county land use plans and policies.

(c) The common law of the State to the contrary notwithstanding, the commission shall allow the holder of a use permit to transport and use surface or ground water beyond overlying land or outside the watershed from which it is taken if the commission determines that such transport and use are consistent with the public interest and the general plans and land use policies of the State and counties.

(d) The commission, by rule, may reserve water in such locations and quantities and for such seasons of the year as in its judgment may be necessary. Such reservations shall be subject to periodic review and revision in the light of changed conditions; provided that all presently existing legal uses of water shall be protected.

**§ -50 Existing uses.** (a) All existing uses of water in a designated water management area, except those exempted from regulation by this chapter, may be continued after the effective date of this chapter only with a permit issued in accordance with sections -51, -52, and -53(b).

(b) After publication as provided in section -52, the commission shall issue a permit for the continuation of a use in existence on the effective date of this chapter if the criteria in subsection (a) are met and the existing use is reasonable and beneficial.

Whether the existing use is a reasonable-beneficial use and is allowable under the common law of the State shall be determined by the commission after a hearing; provided that the commission may make such a determination without a hearing, if the quantity of water applied for does not

exceed an amount per month established by rule or if the quantity of water applied for exceeds an amount per month established by rule, but no objection to the application is filed by any person having standing to file an objection. In determining whether an application does not exceed the amount per month established by rule, the commission shall consider an average of water use over the three-month period immediately preceding the filing of the application.

(c) An application for a permit to continue an existing use must be made within a period of one year from the effective date of designation. Except for appurtenant rights, failure to apply within this period creates a presumption of abandonment of the use, and the user, if the user desires to revive the use, must apply for a permit under section -51. If the commission determines that there is just cause for the failure to file, it may allow a late filing. However, the commission may not allow a late filing more than five years after the effective date of rules implementing this chapter. The commission shall send two notices, one of which shall be by registered mail, to existing users to file for an application for a permit to continue an existing use.

(d) An application shall be acted upon by the commission within ninety calendar days of an application not requiring a hearing, or within one hundred eighty calendar days of an application requiring a hearing. The time periods prescribed in this subsection shall not be deemed to run for any period in which an application is not complete in all material respects in the judgment of the board.

(e) The commission shall issue an interim permit; provided that the existing use meets the conditions of subsection (b). The commission shall also issue an interim permit for an estimated, initial allocation of water if the quantity of water consumed under the existing use is not immediately verifiable, but the existing use otherwise meets the conditions of subsection (b) for a permit or an interim permit. An interim permit is valid for such time period specified therein. The commission may issue successive interim permits of limited duration. Interim permits are subject to revocation under section -58. Whenever interim permits are to be issued, the time periods specified in subsection (d) apply to the issuance or nonissuance of interim permits.

(f) A permit to continue an existing use shall be for a quantity of water not exceeding that quantity being consumed under the existing use. The quantity being consumed shall be determined and verified by the best available means not unduly burdensome on the applicant, as determined by the commission. The commission may prescribe the installation of metering or gauging devices, and, if so prescribed, such metering or gauging devices shall be in place and operational for at least one year before a determination is made as to the quantity of water being consumed in an existing use and a final permit is issued.

(g) If an interim permit is issued pending verification of the actual quantity of water being consumed under the existing use, a final determination of that quantity shall be made within five years of the filing of the application to continue the existing use. In the final determination, the commission may increase or reduce the amount initially granted the permittee.

(h) Two or more existing uses of water are deemed to be competing when they draw water from the same hydrologically controllable area and the aggregate quantity of water consumed by the users exceeds the appropriate sustainable yield or instream flow standards established pursuant to law for the area. If applications are made to continue existing uses which are

## ACT 45

competing and the uses otherwise meet the requirements of subsection (b), the commission shall hold a hearing to determine the quantity of water that may be consumed and the conditions to be imposed on each existing use.

(i) A permit user of water with a continuous reduced water usage shall be given priority to reobtain its permitted level of water usage over any other application; provided that the use remains the same and is reasonable and beneficial and water is available.

§ -51 **Application for a permit.** All permit applications filed under this part shall contain the following:

- (1) The name and address of the applicant and landowner; provided that:
  - (A) In the event the applicant is an association, organization, partnership, trust, corporation, or any other legal entity doing business in Hawaii, the address of its principal place of business shall be stated in the application; and
  - (B) In the event a lessee, licensee, developer, or any other person with a terminable interest or estate in the land, which is the water source of the permitted water, applies for a water permit, the landowner shall also be stated as a joint applicant for the water permit;
- (2) The date of application;
- (3) The water source of the water supply;
- (4) The quantity of water requested;
- (5) The use of the water and any limitations thereon;
- (6) The location of the use of water;
- (7) The location of the well or point of diversion; and
- (8) Such other relevant information that the commission may request from time to time.

The commission in its discretion may allow a person to apply for several related withdrawals in the same application for a water permit.

§ -52 **Notice.** (a) Upon receipt of the application, the commission shall cause a notice thereof to be published in a newspaper having general circulation within the affected area. The notice shall be published at least once a week for two consecutive weeks. In addition, the commission shall cause a copy of such notice to be sent to any person who has filed a written request for notification of any pending applications affecting a particular designated area and to the mayor and the water board of the affected county. This notification shall be sent by regular mail before the date of last publication. The commission shall also make available to the public, upon request, a monthly bulletin of all pending applications.

(b) The notice and the monthly bulletin shall contain the name and address of the applicant; the date of filing; the date set for a hearing, if any; the source of the water supply; the quantity of water applied for; the use to be made of the water and any limitations thereon; the place of the use; and the location of the well point or diversion.

(c) The notice shall state that written objections to the proposed permit may be filed with the commission by a specified date. The commission shall establish by rules the time limits within which objections must be filed. The commission, at its discretion, may request further information from either applicant or objectors, and a reasonable time shall be allowed for such responses. Each applicant shall be notified by the commission of the objections filed to an application.

**§ -53 Permit issuance.** (a) The commission shall determine, after a hearing, if required, whether the conditions set forth in section -49(a) have been established; provided that the commission may make such determination without a hearing if the quantity of water applied for does not exceed an average amount per month to be established by rule or if the quantity of water applied for exceeds an average amount per month to be established by rule, but no objection to the application is filed by any person having standing to file an objection.

(b) In acting upon any application, the commission need consider only those objections filed by a person who has some property interest in any land within the hydrologic unit from which the water sought by the applicant is to be drawn or who will be directly and immediately affected by the water use proposed in the application. The commission shall adopt rules governing the filing of objections and the persons having standing to file objections.

(c) An application shall be acted upon within ninety calendar days of an application not requiring a hearing, or within one hundred eighty calendar days of an application requiring a hearing. The time periods prescribed in this section shall not be deemed to run for any period in which an application is not complete in all material respects, in the judgment of the commission.

(d) As a condition for the issuance of a permit the commission may require the permittee to install meters, gauges, or other appropriate measuring devices.

**§ -54 Competing applications.** If two or more applications which otherwise comply with section -49 are pending for a quantity of water that is inadequate for both or all, or which for any other reason are in conflict, the commission shall first, seek to allocate water in such a manner as to accommodate both applications if possible; second, if mutual sharing is not possible, then the commission shall approve that application which best serves the public interest.

**§ -55 Duration of permits.** Each permit for water use in a designated water management area shall be valid until the designation of the water management area is rescinded, unless revoked as provided in section -58 or modified as provided in section -57.

**§ -56 Review of permits.** At least once every twenty years, the commission shall conduct a comprehensive study of all permits issued under this chapter to determine whether the conditions on such permits are being complied with. The commission shall prepare a formal report to the legislature which shall be available to the public.

**§ -57 Modification of permit terms.** (a) A permittee may seek modification of any term of a permit. A permittee who seeks to change the use of water subject to the permit, whether or not such change in use is of a material nature, or to change the place of use of the water or to use a greater quantity of water than allowed under the permit or to make any change in respect to the water which may have a material effect upon any person or upon the water resource, shall make application pursuant to section -51 in respect to such a change. Modification of one aspect or condition of a permit may be conditioned on the permittee's acceptance of changes in other aspects of the permit.

(b) All permit modification applications shall be treated as initial permit applications and be subject to sections -51 to -56; except that if the proposed modification involves an increase in the quantity of water not

## ACT 45

exceeding an average amount per month to be established by rule, the commission, at its discretion, may approve the proposed modification without a hearing provided that the permittee establishes that:

- (1) A change in conditions has resulted in the water allowed under the permit becoming inadequate for the permittee's needs; or
  - (2) The proposed modification would result in a more efficient utilization of water than is possible under the existing permit.
- (c) County agencies are exempt from the requirements of this section except where the modification involves a change in the quantity of water to be used or where the new use would adversely affect the quality of the water or quantity of use of another permittee.

**§ -58 Revocation of permits.** After a hearing, the commission may suspend or revoke a permit for:

- (1) Any materially false statement in the application for the water permit, a modification of a permit term, or any materially false statement in any report or statement of fact required of the user pursuant to this part.
- (2) Any wilful violation of any condition of the permit.
- (3) Any violation of any provision of this chapter.
- (4) Partial or total nonuse, for reasons other than conservation, of the water allowed by the permit for a period of four continuous years or more. The commission may permanently revoke the permit as to the amount of water not in use unless the user can prove that the user's nonuse was due to extreme hardship caused by factors beyond the user's control. The commission and the permittee may enter into a written agreement that, for reasons satisfactory to the commission, any period of nonuse may not apply towards the four-year revocation period. Any period of nonuse which is caused by a declaration of water shortage pursuant to section -62 shall not apply towards the four-year period of forfeiture.

The commission may cancel a permit, permanently and in whole, with the written consent of the permittee.

**§ -59 Transfer of permit.** A permit may be transferred, in whole or in part, from the permittee to another, if:

- (1) The conditions of use of the permit, including, but not limited to, place, quantity, and purpose of the use, remain the same; and
- (2) The commission is informed of the transfer within ninety days.

Failure to inform the department of the transfer invalidates the transfer and constitutes a ground for revocation of the permit. A transfer which involves a change in any condition of the permit, including a change in use covered in section -57, is also invalid and constitutes a ground for revocation.

**§ -60 Contested cases.** Chapter 91 shall apply except where it conflicts with this chapter. In such a case, this chapter shall apply. Any other law to the contrary notwithstanding, including chapter 91, any contested case hearing under this section shall be appealed upon the record directly to the supreme court for final decision.

**§ -61 Fees.** The commission shall promulgate a schedule of application and permit fees. The fees shall be used to defray the administrative costs of the permit systems established under this chapter. A public agency shall not be subject to the payment of any fees.

**§ -62 Declaration of water shortage.** (a) The commission shall formulate a plan for implementation during periods of water shortage. As a part of the plan, the commission shall adopt a reasonable system of permit classification according to source of water supply, method of extraction or diversion, use of water, or a combination thereof.

(b) The commission, by rule, may declare that a water shortage exists within all or part of an area when insufficient water is available to meet the requirements of the permit system or when conditions are such as to require a temporary reduction in total water use within the area to protect water resources from serious harm. The commission shall publish a set of criteria for determining when a water shortage exists.

(c) In accordance with the plan adopted under subsection (a), the commission may impose such restrictions on one or more classes of permits as may be necessary to protect the water resources of the area from serious harm and to restore them to their previous condition.

(d) A declaration of water shortage and any measures adopted pursuant thereto may be rescinded by rule by the commission.

(e) When a water shortage is declared, the commission shall cause a notice thereof to be published in a prominent place in a newspaper of general circulation throughout the area. The notice shall be published each day for the first week of the shortage and once a week thereafter until the declaration is rescinded. Publication of such notice shall serve as notice to all water users in the area of the condition of water shortage.

(f) The commission shall cause each permittee in the area to be notified by regular mail of any change in the conditions of the permittee's permit, any suspension thereof, or of any other restriction on the use of water for the duration of the water shortage.

(g) If an emergency condition arises due to a water shortage within any area, whether within or outside of a water management area, and if the commission finds that the restrictions imposed under subsection (c) are not sufficient to protect the public health, safety, or welfare, or the health of animals, fish, or aquatic life, or a public water supply, or recreational, municipal, agricultural, or other reasonable uses, the commission may issue orders reciting the existence of such an emergency and requiring that such actions as the commission deems necessary to meet the emergency be taken, including but not limited to apportioning, rotating, limiting, or prohibiting the use of the water resources of the area. Any party to whom an emergency order is directed may challenge such an order but shall immediately comply with the order, pending disposition of the party's challenge. The commission shall give precedence to a hearing on such challenge over all other pending matters.

**§ -63 Appurtenant rights.** Appurtenant rights are preserved. Nothing in this part shall be construed to deny the exercise of an appurtenant right by the holder thereof at any time. A permit for water use based on an existing appurtenant right shall be issued upon application. Such permit shall be subject to sections -26 and -27 and -58 to -62.

## PART V. WATER QUALITY

**§ -66 Jurisdiction over water quality.** The department of health shall exercise the powers and duties vested in it for the administration of the State's water quality control program as provided by law.

**§ -67 Exchange of information.** (a) The department of health shall submit to the commission such information as the commission shall require

## ACT 45

as prescribed in its rules, provided it does not jeopardize any pending or ongoing enforcement action.

(b) The commission shall submit to the department of health such information as the department shall require, for the performance of its water quality functions.

**§ -68 Water quality plan.** (a) The department of health shall formulate a state water quality plan for all existing and potential sources of drinking water and that plan shall become part of the Hawaii water plan described in part III. Requirements for the plan shall be governed by chapters 340E and 342. The state water quality plan shall include water quality criteria for the designation of ground water areas and surface water sources pursuant to section -44.

(b) The state water quality plan shall be periodically reviewed and revised by the department of health as needed.

(c) In formulating or revising the state water quality plan, the department of health shall consult with and carefully evaluate the recommendations of concerned federal, state, and local agencies, particularly county water supply agencies.

(d) The department of health may ban the importation into this State of any substances which the department reasonably believes may present a danger to the water quality of this State.

## PART VI. INSTREAM USES OF WATER

**§ -71 Protection of instream uses.** The commission shall establish and administer a statewide instream use protection program. In carrying out this part, the commission shall cooperate with the United States government or any of its agencies, other state agencies, and the county governments and any of their agencies. In the performance of its duties the commission shall:

- (1) Establish instream flow standards on a stream-by-stream basis whenever necessary to protect the public interest in waters of the State;
  - (A) The commission, on its own motion, may determine that the public interest in the waters of the State requires the establishment of an instream flow standard for streams;
  - (B) In acting upon the establishment of instream flow standards, the commission shall set forth in writing its conclusion that the public interest does or does not require, as is appropriate, an instream flow standard to be set for the stream, the reasons therefor, and the findings supporting the reasons;
  - (C) Each instream flow standard shall describe the flows necessary to protect the public interest in the particular stream. Flows shall be expressed in terms of variable flows of water necessary to protect adequately fishery, wildlife, recreational, aesthetic, scenic, or other beneficial instream uses in the stream in light of existing and potential water developments including the economic impact of restriction of such use;
  - (D) Establishment or modification of an instream flow standard shall be initiated by the commission by providing notice of its intention to set an instream flow standard in a newspaper of general circulation published in the vicinity of the stream in question, to the mayor of the appropriate



- county, and to persons who have previously requested such notice in writing;
- (E) After giving notice of its intention to set an instream flow standard, the commission or other agencies in participation with the commission shall investigate the stream. During the process of this investigation, the commission shall consult with and consider the recommendations of the department of health, the United States Fish and Wildlife Service, the mayor of the county in which the stream is located, and other agencies having interest in or information on the stream, and may consult with and consider the recommendations of persons having interest in or information on the stream. In formulating the proposed standard, the commission shall weigh the importance of the present or potential instream values with the importance of the present or potential uses of water from the stream for non-instream purposes, including the economic impact of restriction of such uses. In order to avoid or minimize the impact on existing uses of preserving, enhancing, or restoring instream values, the commission shall consider physical solutions, including water exchanges, modifications of project operations, changes in points of diversion, changes in time and rate of diversion, uses of water from alternative sources, or any other solution;
- (F) Before adoption of an instream flow standard or modification of an established instream flow standard, the commission shall give notice and hold a hearing on its proposed standard or modification;
- (2) Establish interim instream flow standards;
- (A) Any person with the proper standing may petition the commission to adopt an interim instream flow standard for streams in order to protect the public interest pending the establishment of a permanent instream flow standard;
- (B) Any interim instream flow standard adopted under this section shall terminate upon the establishment of a permanent instream flow standard for the stream on which the interim standards were adopted;
- (C) A petition to adopt an interim instream flow standard under this section shall set forth data and information concerning the need to protect and conserve beneficial instream uses of water and any other relevant and reasonable information required by the commission;
- (D) In considering a petition to adopt an interim instream flow standard, the commission shall weigh the importance of the present or potential instream values with the importance of the present or potential uses of water for non-instream purposes, including the economic impact of restricting such uses;
- (E) The commission shall grant or reject a petition to adopt an interim instream flow standard under this section within one hundred eighty days of the date the petition is filed. The one hundred eighty days may be extended a maximum of one hundred eighty days at the request of the petitioner and subject to the approval of the commission;

- (F) Interim instream flow standards may be adopted on a stream-by-stream basis or may consist of a general instream flow standard applicable to all streams within a specified area;
- (3) Protect stream channels from alteration whenever practicable to provide for fishery, wildlife, recreational, aesthetic, scenic, and other beneficial instream uses;
  - (A) The commission shall require persons to obtain a permit from the commission prior to undertaking a stream channel alteration; provided that routine streambed and drainageway maintenance activities and maintenance of existing facilities are exempt from obtaining a permit;
  - (B) Projects which have commenced construction or projects reviewed and approved by the appropriate federal, state, or county agency prior to the effective date of this chapter shall not be affected by this part;
  - (C) The commission shall establish guidelines for processing and considering applications for stream channel alterations consistent with section -93;
  - (D) The commission shall require filing fees by users to accompany each application for stream channel alteration;
- (4) Establish an instream flow program to protect, enhance, and reestablish, where practicable, beneficial instream uses of water. The commission shall conduct investigations and collect instream flow data including fishing, wildlife, aesthetic, recreational, water quality, and ecological information and basic streamflow characteristics necessary for determining instream flow requirements.

The commission shall implement its instream flow standards when disposing of water from state watersheds, including that removed by wells or tunnels where they may affect stream flow, and when regulating use of lands and waters within the state conservation district, including water development.

## PART VII. WELLS

§ -81 **Definitions.** As used in this part, unless the context otherwise requires, the terms:

“Abandoned well” means any well that has been permanently discontinued. Any well shall be deemed abandoned which is in such a state of disrepair that continued use for the purpose of obtaining ground water is impractical.

“Installation of pumps and pumping equipment” means the procedure employed in the placement and preparation for operation of pumps and pumping equipment, including all construction involved in making entrance to the well, and establishing seals and repairs to existing installations.

“Pump installation contractor” means any person, firm, or corporation which is in the business of installing or repairing pumps and pumping equipment.

“Pumps and pumping equipment” means any equipment or materials utilized or intended for use in withdrawing or obtaining ground water. It includes seals, tanks, fittings, and controls.

“Repairs” means any change, replacement, or other alteration of any well, pump, or pumping equipment which requires a breaking or opening of the well seal.

“Well” shall be as defined in section -3.

“Well construction” means the producing of any well, including the construction, alteration, or repair thereof, but excluding the installation of pumps and pumping equipment.

“Well driller” means any person, firm, or corporation which constructs, alters, or repairs wells.

“Well seal” means an approved arrangement or device used to cap a well or to establish and maintain a junction between the casing or curbing of a well and the piping or equipment installed therein, the purpose or function of which is to prevent pollutants from entering the well at the other terminal.

**§ -82 Powers and duties of the commission.** In addition to its other powers and duties, the commission shall:

- (1) Require registration of all existing wells, as provided in section -83;
- (2) Require permits for well construction and for installation of pumps and pumping equipment as provided in section -84;
- (3) Require well completion reports, as provided in section -85;
- (4) Develop well construction and installation standards for pumps and pumping equipment, as provided in section -86; and
- (5) Adopt, modify, and enforce all rules and orders necessary to carry out this part.

**§ -83 Registration of all existing wells.** Any person owning or operating any well shall register the well with the commission. Registration shall be on the forms provided by the commission. The registration report shall include such information as prescribed by the commission, including the water use permit number; the location of the well; the diameter of the well; the maximum capacity of the well; the name of the well driller who constructed the well; and the name of the pump installation contractor who installed the pump and pumping equipment.

The commission may deny the issuance of a water use permit under part IV, until such time as the applicant registers all wells which the applicant owns or operates.

**§ -84 Permits for well construction and pump installation.** (a) No well construction and no installation of pumps and pumping equipment shall commence without appropriate permit from the commission. An application for a permit for well construction shall be required for all areas of the State including water management areas and shall be made by the well driller who will construct the well. An application for a permit for installation of a pump and pumping equipment shall be made by the pump installation contractor who will install the pump and pumping equipment.

(b) Every application shall contain such data prescribed by the commission, including the applicant’s name; the applicant’s license number; the name and address of the person who will control and operate the well; in water management areas, the water use permit number; the location of the well; the proposed depth and method of well construction; the size and expected capacity of the well; and a description of the pump and pumping equipment to be installed.

(c) The commission may issue a permit only if the proposed construction complies with all applicable laws, rules, and standards. Before acting on any application, the commission shall cause the application to be reviewed by the department of health for compliance with their rules and standards concerning, among other things, the appropriateness of the well location.

## ACT 45

(d) Every permit shall direct the well driller and pump installation contractor to file a well completion report, as provided in section -85. The permit shall be prominently displayed at the site of the well at all times until the well construction or the pump and pumping equipment installation is completed.

(e) The holder of a permit for well construction, with the approval of the commission, may change the location of the well before construction is completed. An application to change the location shall describe the location, the proposed depth and method of construction, and the size and expected capacity of the new well. It shall also describe the manner of sealing or plugging the incomplete and abandoned well. The commission shall cause all such applications to be reviewed by the department of health for compliance with their rules and standards concerning, among other things, the appropriateness of the location of the well. The commission may issue an amended permit if it determines that the proposed new well location will serve the same use as the original well and draw upon the same supply of water and will not be contrary to any applicable law, rule, order, or regulation, and that the incomplete and abandoned well will be sealed or plugged in a manner to prevent waste of water and damage to the water supply and to protect the public from harm.

(f) Any applicant whose application is rejected may obtain a hearing before the commission by filing within thirty days of the mailing of the notice of rejection a written petition requesting such a hearing. The hearing shall be conducted pursuant to part I.

(g) The commission may suspend or revoke a permit, after notice and hearing, on any of the following grounds:

- (1) Material misstatement or misrepresentation in the application for a permit;
- (2) Failure to comply with the provisions set forth in the permit;
- (3) Wilful disregard or violation of any provision of this part or any rule adopted pursuant thereto; or
- (4) Material change of circumstances or conditions existing at the time the permit was issued.

**§ -85 Well completion report.** Within thirty days after the completion of the well, the well driller and pump installation contractor shall file with the commission a written report containing such information prescribed by the commission, including, as appropriate: the depth, thickness, and character of the different strata penetrated and the location of water-bearing strata; the date of completion of the well; the length, size, and weight of the casing and a description of the placement of the casing; the size of the drilled hole; where the well is sealed off; the type of seal; the number of cubic feet per second or gallons per minute of flow from the well; the pressure in pounds per square inch, if a flowing well, and the static water level and water temperature, if a nonflowing well; and a chemical analysis of a water sample drawn from the well.

**§ -86 Well construction and pump installation standards.** (a) The commission shall adopt minimum standards for the construction of wells and the installation of pumps and pumping equipment. The standards shall be such as to ensure the safe and sanitary maintenance and operation of wells, the prevention of waste, and the prevention of contamination of the waters. The minimum standards for well construction shall include the criteria for well location and the procedures for grouting, sealing, capping, and plugging wells. They shall also provide for the installation of devices to measure the amount of ground water being withdrawn from the wells. The

minimum standards for the installation of pumps and pumping equipment shall include the required equipment characteristics and construction.

(b) If any well construction or pump installation standard is violated and as a consequence ground water is wasted or any well is contaminated, the commission, after giving notice of the defect to the owner of the land on which the well is located and giving such owner a reasonable time to correct the defect, may itself correct the defect and charge the land owner for the cost of such correction. Such cost constitutes a lien on the land until paid. The lien may be foreclosed in any court of competent jurisdiction, and in such foreclosure suit, the court shall allow the commission reasonable attorney's fees.

§ -87 **Abandonment of wells.** When a well is abandoned, the owner shall fill and seal the well in a manner approved by the commission. Before abandonment, the owner shall file with the commission a report showing the owner's name and address; the water use permit number, if any; the name and address of the well driller who will be employed to perform the work required for abandonment; the reason for abandonment; a description of the work to be performed to effect the abandonment; and such other information as the board may require.

## PART VIII. STREAM DIVERSION WORKS

§ -91 **Definition.** In this part:

"Stream diversion works" means any artificial or natural structure emplaced within the stream for the purpose of diverting stream water.

§ -92 **Registration of existing stream diversion works.** Any person owning or operating a stream diversion works within or outside of a water management area shall register such work with the commission. Registration shall be on the forms provided by the commission. Reporting requirements on the registration forms shall be reasonable.

§ -93 **Permits for construction or alteration.** No person shall construct or alter a stream diversion works, other than in the course of normal maintenance, without first obtaining a permit from the commission. The commission may impose such reasonable conditions as are necessary to assure that the construction or alteration of such stream diversion works will not be inconsistent with the general plan and land use policies of the State and the affected county. Nothing in this section shall be construed to be inconsistent with part IV.

A person proposing to construct or alter a stream diversion work shall apply to the commission for a permit authorizing such construction or alteration. The application shall contain the following:

- (1) Name and address of the applicant;
- (2) Name and address of the owner or owners of the land upon which the works are to be constructed and a legal description of such land;
- (3) Location of the work;
- (4) Engineering drawings showing the detailed plans of construction;
- (5) Detailed specifications of construction;
- (6) Name and address of the person who prepared the plans and specifications for construction;
- (7) Name and address of the person who will construct the proposed work;
- (8) General purpose of the proposed work; and

## ACT 45

(9) Such other information as the commission may require.

§ -94 **Completion report.** Within thirty days after the completion of construction or alteration of any stream diversion work, the permittee shall file a written statement of completion with the commission. The commission shall designate the form of such statement and such information as it shall require.

§ -95 **Abandonment.** Any owner of any stream diversion work wishing to abandon or remove such work shall first obtain a permit to do so from the commission.

### PART IX. NATIVE HAWAIIAN WATER RIGHTS

§ -101 **Native Hawaiian water rights.** (a) Provisions of this chapter shall not be construed to amend or modify rights or entitlements to water as provided for by the Hawaiian Homes Commission Act, 1920, as amended, and by chapter 175, relating to the Molokai irrigation system.

(b) No provision of this chapter shall diminish or extinguish trust revenues derived from existing water licenses unless compensation is made.

(c) Traditional and customary rights of ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778 shall not be abridged or denied by this chapter. Such traditional and customary rights shall include, but not be limited to, the cultivation or propagation of taro on one's own kuleana and the gathering of hihiwai, 'opae, 'o'opu, limu, thatch, ti leaf, aho cord, and medicinal plants for subsistence, cultural, and religious purposes.

(d) The appurtenant water rights of kuleana and taro lands, along with those traditional and customary rights assured in this section, shall not be diminished or extinguished by a failure to apply for or to receive a permit under this chapter."

SECTION 3. Section 26-15, Hawaii Revised Statutes, is amended to read as follows:

**"§26-15 Department of land and natural resources.** The department of land and natural resources shall be headed by an executive board to be known as the board of land and natural resources[.], except for matters relating to the state water code where the commission on water resource management shall have exclusive jurisdiction and final authority.

The board shall consist of six members, one from each land district and two at large. The appointment, tenure, and removal of the members and the filling of vacancies on the board shall be as provided in section 26-34. The governor shall appoint the chairperson of the board from among the members thereof.

The board may delegate to the chairperson such duties, powers, and authority, or so much thereof, as may be lawful or proper for the performance of the functions vested in the board.

The chairperson of the board shall serve in a full-time capacity. The chairperson shall, in that capacity, perform those duties, and exercise those powers and authority, or so much thereof, as may be delegated by the board.

The department shall manage and administer the public lands of the State [and the water resources] and minerals thereon, including the soil conservation function, the forests and forest reserves, aquatic life and wildlife resources, aquaculture programs, and state parks, including historic sites.

The functions and authority heretofore exercised by the commissioner and board of public lands (including the hydrography division and the

bureau of conveyances), the Hawaii water authority, the commission on ground water resources, the Hawaii land development authority, the soil conservation committee, and the commission on historical sites and the function of managing the state parks and the function of promoting the conservation, development and utilization of forests, including the regulatory powers over the forest reserve, aquatic life and wild life resources of the State heretofore exercised by the board of commissioners of agriculture and forestry as heretofore constituted are transferred to the department of land and natural resources established by this chapter.”

SECTION 4. The commission shall adopt interim instream flow standards as follows:

- (1) Windward Oahu by July 31, 1987;
- (2) East Maui and Kauai by December 31, 1987;
- (3) Hawaii and Molokai by July 1, 1988; and
- (4) West Maui and Leeward Oahu by December 31, 1988.

The commission may alter priorities relative to given areas, and may extend the time needed for completion in the event contested case hearings or court appeals, relative to establishing interim instream standards develop during this period.

SECTION 5. (a) There is established within the legislative reference bureau for administrative purposes a review commission on the state water code consisting of seven members appointed by the president of the senate and the speaker of the house of representatives. The review commission shall be directly accountable to the legislature. The review commission shall perform a comprehensive review of the state water code and the development of recommendations for its improvement. The review shall include, but not be limited to, the following: (1) all water issues addressed in the state water code; (2) other water matters of fundamental importance which should be dealt with in a state water code, but which have not yet been incorporated, such as the identification and definition of public and private rights to waters, the institution of a comprehensive statewide permit system to regulate all types and uses of water, the integration of water quality and water quantity matters for a unified management of the resource by a single lead agency; and (3) the appropriate agencies of the state and county levels responsible for protecting, developing, and controlling water, their aims and objectives, the necessary powers to be conferred upon them, and their organizational support.

(b) The review commission shall begin its review work five years following the passage of a state water code by the legislature and shall complete its work within a period of two years, culminating in a report of its findings and recommendations to the legislature. The review commission shall cease to exist one year after the submittal of the report.

SECTION 6. No provision in this Act shall be considered to be a mandate under Article VIII, Section 5 of the State Constitution, for a political subdivision to undertake new programs or to increase the level of services under existing programs of that political subdivision.

SECTION 7. If any portion of this Act, or the application thereof to any person or circumstance is held to be invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

## ACT 46

SECTION 8. Chapters 176, 176D, 177, and 178, Hawaii Revised Statutes, are repealed two years from the effective date of this Act. In the event of conflict, this chapter, and rules established hereunder, shall prevail.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$861,000 or so much thereof as may be necessary for fiscal year 1987-1988, and \$410,000 or so much thereof as may be necessary for fiscal year 1988-1989, for the purposes of this Act. The sum appropriated shall be expended by the department of land and natural resources.

SECTION 10. This Act shall take effect on July 1, 1987. However, the board of land and natural resources shall prepare all the necessary regulation and organizational support to implement this Act upon its passage.

(Approved May 29, 1987.)

### Note

1. So in original.

## ACT 46

S.B. NO. 45

A Bill for an Act Relating to the Legal Status of Persons.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 573-1, Hawaii Revised Statutes, is renumbered to read as follows:

**“[§573-1] §572-25 Separate property.** The real and personal property of a spouse, upon marriage, shall remain that spouse's separate property, free from the management, control, debts, and obligations of the other spouse; and a spouse may receive, receipt for, hold, manage, and dispose of property, real and personal, in the same manner as if that spouse were sole.”

SECTION 2. Sections 573-3 to 573-5, Hawaii Revised Statutes, are amended and renumbered to read as follows:

**“[§573-3] §572-26 May be personal representative, guardian, trustee, or other fiduciary.** A married [woman] person may be a personal representative, guardian, trustee, custodian, or other fiduciary and may bind [herself] the person's self and the estate [she] the person represents without any act or assent on the part of [her husband.] the person's spouse.”

**“[§573-4] §572-27 [Women] Persons as sureties.** All [woman,] persons, upon attaining their majority, and having the necessary property qualifications as by law required, may act, serve, and be sureties on all bonds and undertakings required under the laws of the State.

**“[§573-5] §572-28 Suits by and against.** A married [woman] person may sue and be sued in the same manner as if [she] the person were sole; but this section shall not be construed to authorize suits between [husband and wife.] spouses.”

SECTION 3. Section 573-8, Hawaii Revised Statutes, is amended and renumbered to read as follows:



“~~§573-8~~ §572-29 **Marriage settlement not invalidated.** Nothing contained in [sections 573-1 to 573-7] this part shall invalidate any marriage settlement or contract.”

SECTION 4. Chapter 573, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 47

S.B. NO. 65

A Bill for an Act Relating to Family Court.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 571-84, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) In all proceedings concerning violations other than traffic violations, in which a minor coming within section 571-11(1) is involved and after the termination of any proceeding under section 571-11(1) arising out of any such violation [in which], the court may disclose to a party directly concerned the disposition of a case involving an offense against a person or property. This disclosure shall be made only upon written request of the party directly concerned. If the minor has been adjudicated a law violator, the name and address of the minor, and, when practicable, the name of the parent or guardian shall be disclosed pursuant to the order of the court or the Hawaii Family Court Rules, to the parties directly concerned with the alleged violation, or their duly licensed attorneys acting under written authority signed by either party. For the purpose of this section “parties directly concerned” means any person who may sue because of death, injury, or damage resulting from any violation other than a traffic violation in which a minor coming within section 571-11(1) is involved.

The minor, and, when practicable, the minor’s parents or custodian, and the attorney of the minor shall be notified when the minor’s name and address have been released.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 48

S.B. NO. 66

A Bill for an Act Relating to the Judiciary.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291C-166, Hawaii Revised Statutes, is amended to read as follows:

## ACT 49

“[[§291C-166]] Failure to [obey summons or citation.] appear. Any person who fails to appear at the place and within the time specified in the summons or citations issued to the person by an officer upon the person’s arrest for any traffic violation or who fails to appear for any subsequent answer, hearing, or trial date duly set by the court for the traffic violation is guilty of a violation as provided in the Penal Code regardless of the disposition of the charge of which the person was originally arrested. Nothing in this section shall be construed to affect the power of the court to regulate its proceedings and to punish any person whose failure to appear delays proceedings before the court.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 49

S.B. NO. 91

A Bill for an Act Relating to Orchards.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. As presently enacted, chapter 154, Hawaii Revised Statutes, authorizes the board of agriculture to grant exemptions from real property taxes to owners of property suitable for raising certain fruits or nuts. Since 1978, however, all power over real property taxes has been transferred to the counties by constitutional amendment. The purpose of this Act is to formally repeal the board’s authority which has been rendered inapplicable by the 1978 constitutional amendments. It is not the intent or purpose of this Act to in any way affect any agreements or exemptions entered into or approved by the board of agriculture before its effective date.

SECTION 2. Chapter 154, Hawaii Revised Statutes, is repealed.

SECTION 3. This Act shall not apply to any agreements or exemptions entered into or approved by the board of agriculture before its effective date.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 50

S.B. NO. 125

A Bill for an Act Relating to Torts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to reflect the holding of the Supreme Court of the State of Hawaii in Nobriga v. Raybestos-Manhattan, Inc., 67 Haw. 157 (1984), as it pertains to section 663-14, Hawaii Revised Statutes. Multiple releases of joint tortfeasors shall be treated as a single

release for purposes of the reduction of a judgment against remaining joint tortfeasors.

SECTION 2. Section 663-14, Hawaii Revised Statutes, is amended to read as follows:

**“§663-14 Release; effect on injured person’s claim.** A release by the injured person of joint tortfeasors or one joint tortfeasor, whether before or after judgment, [does] shall not discharge the other tortfeasors unless the releases or release so [provides;] provide; but reduces the claim against the other tortfeasors in the amount of the consideration paid for the releases or release, or in any amount or proportion by which the releases or release [provides] provide that the total claim shall be reduced, if greater than the consideration paid.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 51

S.B. NO. 156

A Bill for an Act Relating to Salvaged Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-48, Hawaii Revised Statutes, is amended as follows:

1. Subsection (c) is amended to read:

“(c) Upon resale of the salvage vehicle, the seller or, if the seller is an insurance company, its authorized agent[,] shall transfer the salvage certificate and issue a bill of sale to the purchaser which shall be on a form prescribed by the director of finance. The seller shall notify the purchaser, in writing, of the requirements of this chapter regarding the recertification of salvage vehicles. The seller shall sell the salvage vehicle only to a person licensed pursuant to chapter 437B, sections 289-4, or 445-232, or any person who executes an affidavit which states whether or not the salvage vehicle would be used to construct a rebuilt vehicle as defined in section 286-2 and that if the salvage vehicle is to be rebuilt, [that] the purchaser will register the rebuilt vehicle as required by this chapter.”

2. Subsection (f) is amended to read:

“(f) In the event a total loss insurance settlement between an insurance company and its insured or a claimant for property damage caused by its insured results in the retention of the salvage vehicle by the insured or claimant, as the case may be, then in such event, the insurance company or its authorized agent shall[,] notify, within ten days from the date of settlement, [notify] the director of finance of such retention by its insured[,] or claimant, as the case may be, and shall notify its insured, or claimant as the case may be, in writing, of the requirements of this chapter regarding the recertification of salvage vehicles. The notification shall be on a form prescribed by the director of finance.”

## ACT 52

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 52

S.B. NO. 258

A Bill for an Act Relating to Food, Drugs, and Cosmetics.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 328-10, Hawaii Revised Statutes, is amended to read as follows:

**“§328-10 Foods deemed misbranded when.** A food shall be deemed to be misbranded:

- (1) If its labeling is false or misleading in any particular; or if its labeling or packaging fails to conform with the requirements of sections 328-2 and 328-19.1;
- (2) If it is offered for sale under the name of another food;
- (3) If it is an imitation of another food for which a definition and standard of identity has been prescribed by [regulation] rules as provided by section 328-8; or if it is an imitation of another food that is not subject to paragraph (7) [of this section], unless its label bears in type of uniform size and prominence, the word “imitation” and, immediately thereafter, the name of the food imitated;
- (4) If its container is so made, formed, or filled as to be misleading;
- (5) If in package form, unless it bears a label containing (A) the name and place of business of the manufacturer, packer, or distributor; (B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label; provided that under [clause] subparagraph (B) [of this paragraph] reasonable variations shall be permitted, and exemptions as to small packages shall be established, by [regulations prescribed] rules adopted by the department of health;
- (6) If any word, statement, or other information required by or under authority of this part to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (7) If it purports to be or is represented as a food for which a definition and standard of identity have been prescribed by [regulations] rules as provided by section 328-8, unless (A) it conforms to such definition and standard, and (B) its label bears the name of the food specified in the definition and standards, and, insofar as may be required by the [regulations,] rules, the common names of optional ingredients (other than spices, flavoring, and coloring) present in the food;
- (8) If it purports to be or is represented as:

- (A) A food for which a standard of quality has been prescribed by [regulations] rules as provided by section 328-8 and its quality falls below such standard unless its label bears, in such manner and form as the [regulations] rules specify, a statement that it falls below such standard; or
- (B) A food for which a standard or standards of fill of container have been prescribed by [regulation] rules as provided by section 328-8, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as the [regulations] rules specify, a statement that it falls below such standard;
- (9) If it is not subject to paragraph (7) [of this section], unless its label bears (A) the common or usual name of the food, if any there be, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided that to the extent that compliance with the requirements of [clause] subparagraph (B) [of this paragraph] is impractical or results in deception or unfair competition, exemptions shall be established by [regulations] rules prescribed by the department; and, provided further that the requirements of [clause] subparagraph (B) shall not apply to food products which are packaged at the direction of purchasers at retail at the time of sale, the ingredients of which are disclosed to the purchasers by other means in accordance with [regulations] rules prescribed by the department;
- (10) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the department determines to be, and by [regulations] rules prescribes, as necessary in order to fully inform purchasers as to its value for such uses;
- (11) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided that to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by [regulations] rules prescribed by the department; and, provided further that this paragraph and paragraphs (7) and (9) [of this section] with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream. The provisions of this paragraph regarding chemical preservatives shall not apply to a pesticide chemical when used in or on a raw agricultural commodity which is the produce of the soil;
- (12) If it is a product intended as an ingredient of another food and, when used according to the directions of the purveyor, will result in the final food product being adulterated or misbranded;
- (13) If it is a color additive unless its packaging and labeling are in conformity with the packaging and labeling requirements applicable to the color additive prescribed under the Federal Act;
- (14) If it is a raw agricultural commodity which is the produce of the soil, bearing or containing a pesticide chemical applied after harvest, unless the shipping container of such commodity bears labeling which declares the presence of such chemical in or on such commodity and the common or usual name and the function of such chemical; provided that no such declaration shall be

## ACT 53

required while such commodity, having been removed from the shipping container, is being held or displayed for sale at retail out of such container in accordance with the custom of the trade.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 53

S.B. NO. 268

A Bill for an Act Relating to the Transfer of Offenders Under Treaty.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§353- **Transfer of offenders under treaty; authority of governor.** (a) If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of convicted offenders to the country of which they are citizens or nationals, the governor may, on behalf of the State and subject to the terms of the treaty, authorize the director of social services to consent to the transfer or exchange of offenders and take any other action necessary to initiate the participation of this State in the treaty.

(b) The transfer shall occur only if the receiving foreign country is on an approved list published by Amnesty International concerning that country's treatment of prisoners at the time of transfer. If the receiving country is not on an approved list as noted, the prisoner must consent to his transfer to the receiving foreign country.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 54

S.B. NO. 301

A Bill for an Act Relating to the Public Employees Health Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-95, Hawaii Revised Statutes, is amended to read as follows:

“§88-95 **Withholding of dues and insurance premiums.** A retired member, if the retired member requests in writing, may have withheld from the retired member's pension, annuity, or retirement allowance, payments to the Hawaii public employees health fund and employee organizations for dues and insurance premiums.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 55

S.B. NO. 303

A Bill for an Act Relating to Health Requirements for Entry to School.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 298-49, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§298-49]]~~ **Notification for noncompliance.** If a child does not complete the [child’s immunization and tuberculin requirement] immunizations required under section [298-43] 298-42 or the [child’s] physical examination [requirement] required under section 298-47 within the three month period provided after provisional entry into school, the department of education shall refer the child to the department of health. The department of health shall cause a notice to be sent to the parent of the child stating that if the required immunizations[, tuberculin test,] or physical examination is not completed within thirty days of the date of the notice, the child shall not be admitted to school.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 56

S.B. NO. 304

A Bill for an Act Relating to the State Librarian.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 312-2.1, Hawaii Revised Statutes, is amended to read as follows:

“§312-2.1 Appointment of state librarian; duties; salary. The state librarian shall be appointed by the board of education, without regard to chapters 76 and 77, shall serve at the pleasure of the board, shall be under the direction of the board, and shall be responsible for the operation, planning, programming, and budgeting of all community/school and public libraries within the State. [Notwithstanding any other law to the contrary, the] The salary of the state librarian shall be set by the board of education. Effective [January 1, 1986,] July 1, 1987, the salary shall [not exceed \$55,404] be not more than \$68,400 a year.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

A Bill for an Act Relating to Private Investigators and Guards.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- [(6) Chapter 463 (Board of Detectives and Guards)]
- [(7)] (6) Chapter 455 (Board of Examiners in Naturopathy)

(b) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 468K (Travel Agencies)
- (4) Chapter 373 (Commercial Employment Agencies)
- (5) Chapter 442 (Board of Chiropractic Examiners)
- (6) Chapter 448 (Board of Dental Examiners)
- (7) Chapter 436E (Board of Acupuncture)

(c) The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 439 (Board of Cosmetology)
- (7) Chapter 454 (Mortgage Brokers and Solicitors)
- (8) Chapter 454D (Mortgage and Collection Servicing Agents)

(d) The following chapters are hereby repealed effective December 31, 1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 462A (Pilotage)
- (6) Chapter 438 (Board of Barbers)

(e) The following chapters are hereby repealed effective December 31, 1991:

- (1) Chapter 448H (Elevator Mechanics Licensing Board)
- (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (4) Chapter 460 (Board of Osteopathic Examiners)
- (5) Chapter 461 (Board of Pharmacy)
- (6) Chapter 461J (Board of Physical Therapy)
- (7) Chapter 463E (Podiatry)



1992: (f) The following chapters are hereby repealed effective December 31,

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)[.]

1997: (g) The following chapter is hereby repealed effective December 31,

- (1) Chapter 463 (Board of Private Detectives and Guards)."

SECTION 2. Section 463-5, Hawaii Revised Statutes, is amended to read as follows:

**"§463-5 Private detectives, guards, and agencies; license required.** No person shall engage in the business of private detective or guard, represent oneself to be, hold oneself out as, list oneself, or advertise as a private detective or guard or as furnishing detective investigating services or guard services without first obtaining a license as a private detective or guard from the board [of detectives and guards] upon payment of application[, examination] and license fees and no firm, corporation, partnership, or association shall engage in the business of private detective or guard, represent itself to be, hold itself out as, list itself, or advertise as a private detective or guard agency or bureau or as furnishing detective, investigating, or guard services without first obtaining a license as a private detective or guard agency from the board upon payment of application and license fees."

SECTION 3. Section 463-6, Hawaii Revised Statutes, is amended to read as follows:

**"§463-6 Private detective; qualifications for license.** The board [of detectives and guards] may grant a private detective license to any suitable person, corporation, partnership, or association making written application therefor. The applicant, if an individual, or the principal detective of a corporation, shall be a resident of the State, shall be not less than [twenty-two] eighteen years of age, shall have a high school education or its equivalent, and shall have had experience reasonably equivalent to at least four years of full-time investigational work. The applicant shall disclose whether the applicant has received treatment for any psychiatric or psychological disorder, or whether such treatment has ever been recommended, and shall not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the applicant to engage in the profession, provided such sentence has not been annulled or expunged by court order. Any licensee may employ as many agents, operatives, and assistants as necessary for the conduct of business, provided such licensee, or the principal detective if a corporation is the employer, shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the licensee's business. Employees shall have an eighth grade education or its equivalent. The employee shall disclose whether the employee has received treatment for any psychiatric or psychological disorder, or whether such treatment has ever been recommended, and shall not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the employee to engage in the profession, provided there has not been any order annulling or expunging the sentence. The employer, with the written authorization of the employee, may conduct a criminal history records check of all new employees directly through the Hawaii criminal justice data center upon certification to the board that the signature on the authorization is authentic and that the employee is employed in a guard or investigative capacity."

## ACT 57

SECTION 4. Section 463-8, Hawaii Revised Statutes, is amended to read as follows:

**“§463-8 Guard; qualifications for license.** The board [of detectives and guards] may grant a guard or a guard agency license to any suitable person, corporation, partnership, or association making written application therefor. The applicant, if an individual, or the principal guard in the case of a corporation, shall be a resident of the State, shall be not less than [twenty-two] eighteen years of age, shall have a high school education or its equivalent, and shall have had experience reasonably equivalent to at least four years of full-time guard work. The applicant shall disclose whether the applicant has received treatment for any psychiatric or psychological disorder, or whether such treatment has ever been recommended, and shall not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the applicant to engage in the profession, provided such sentence has not been annulled or expunged by court order. Any licensee may employ as many agents, operatives, and assistants as necessary for the conduct of business, provided such licensee, or the principal guard if the employer is a corporation, shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the licensee's business. Employees shall have an eighth grade education or its equivalent. The employee shall disclose whether the employee has received treatment for any psychiatric or psychological disorder, or whether such treatment has ever been recommended, and shall not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the employee to engage in the profession, provided there has not been any order annulling or expunging the sentence. The employer, with the written authorization of the employee, may conduct a criminal history records check of all new employees directly through the Hawaii criminal justice data center upon certification to the board that the signature on the authorization is authentic and that the employee is employed in a guard or investigative capacity.”

SECTION 5. Section 463-9, Hawaii Revised Statutes, is amended to read as follows:

**“§463-9 Form of application for license.** Application for such license shall be made under oath on a form to be furnished by the board [of detectives and guards] which form may require a statement of the applicant's full name, age, date and place of birth, residence and business address, the business or occupation the applicant has engaged in for ten years immediately preceding the date of the filing of the application with names and addresses of employers, the date and place of any arrest or conviction of a crime where there has not been any order annulling or expunging the sentence or of any offense involving moral turpitude, whether the applicant has received treatment for any psychiatric or psychological disorder, or whether such treatment has ever been recommended, and such information, including fingerprints of the applicant and such other information as the board may require to investigate the character, competency, and integrity of the applicant. The board shall conduct such investigation of the applicant's background, character, competency, and integrity as it deems appropriate, and shall request criminal history records of the applicant from each jurisdiction in which the application form indicates the applicant lived for any substantial period of time. The [police departments of the counties of this State] Hawaii criminal justice data center shall provide such information on request to the [board. The application shall be accompanied by affidavits of

three reputable citizens of the State residing in the locality where the applicant proposes to conduct business, stating that the applicant is a person of good moral character.] director of commerce and consumer affairs.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 58

S.B. NO. 351

A Bill for an Act Relating to Animals.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 142-68, Hawaii Revised Statutes, is amended to read as follows:

“**§142-68 Fine for continued trespassing by animals.** In case cattle, horses, mules, asses, [or] sheep, swine, or goats trespass on any land, the owner of the animals, if known, shall be notified by the owner or occupier of the land trespassed upon, and if the owner of the animals does not remove them within twenty-four hours, if the animals are trespassing on a homesite, garden, or truck farm, or within forty-eight hours, if the animals are trespassing on any other type of land, the owner of the animals shall be [fined not more than \$100.] subject to penalties as provided in section 142-12.”

SECTION 2. Section 142-67, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 59

S.B. NO. 365

A Bill for an Act Relating to Physical Therapy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 461J-3, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Nothing in this chapter shall be construed to prohibit a certified athletic trainer as recognized by the National Athletic Trainers Association from performing within the scope of such certification; nor shall it be construed to prohibit any person employed as an athletic trainer in any public or private educational institution from [performing physical therapy or physical therapy services as defined in section 461J-1;] administering hot packs, whirlpool, and cold packs, protective taping, and basic first aid intervention, or from acting under the direct supervision of a certified

## ACT 60

athletic trainer or team physician; provided that [such] the services are performed on regularly enrolled students, [and provided further] that [such] the students are engaged in or are eligible to engage in institutionally sponsored athletic events[.], and that in no case shall the person claim to be a physical therapist or claim to be performing physical therapy."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 60

S.B. NO. 366

A Bill for an Act Relating to Time Sharing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514E-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A developer shall not offer or dispose of a time share unit or a time share interest unless the disclosure statement required by section 514E-9 is filed with the director pursuant to the time specified in this chapter, or the development is exempt from filing, and the time share plan to be offered by the developer is accepted by the director for registration under this chapter. The director shall not accept a developer's time share plan if the developer does not possess a history of honesty, truthfulness, financial integrity, and fair dealing."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 61

S.B. NO. 368

A Bill for an Act Relating to Advertising in Connection with Credit Sales.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 476-29, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any person who advertises by television, radio, telephone, newspaper, magazine, other printed material, or in any other way, for the credit sale of goods or services primarily for personal, family, or household purposes, under a contract providing for the extension of closed-end credit, and who in [such] that advertising recites the amount or percentage of any down payment, the number of payments, the period of payment, the amount of any payment, or the amount of any finance charge, shall in the same advertisement recite:

- (1) The amount or percentage of the down payment;
- (2) The terms of repayment; and

- (3) The annual percentage rate[,] and, if the rate may be increased after the buyer becomes contractually obligated on the contract[.], that fact.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 62

S.B. NO. 370

A Bill for an Act Relating to Private Activity Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to allocate Hawaii's annual ceiling for tax-exempt private activity bonds among the governmental units in the State authorized to issue such bonds, and to reflect the consolidation of all prior ceilings for tax-exempt private activity type bonds into that one ceiling in the Internal Revenue Code of 1986 (the "Code"), by the Tax Reform Act of 1986, Public Law No. 99-514.

The Code places a \$250,000,000 ceiling on the principal amount of tax-exempt private activity bonds which may be issued within Hawaii for the calendar years 1986 and 1987, and a \$150,000,000 ceiling for each calendar year thereafter. Under the Code the definition of private activity bonds is expanded to include qualified mortgage bonds (such as the "Hula Mae" bonds), which under prior law were subject to a separate ceiling applicable only to such bonds, and qualified residential rental projects, which under prior law were not subject to any state ceiling. Although the Code includes a formula for the allocation of the ceiling among the governmental units authorized to issue such bonds, the Code also allows a state to establish a different formula for allocating the state ceiling among its governmental units by state law.

This Act establishes a formula that differs from the federal allocation formula to provide more flexibility and to better serve the needs of the counties and other issuers of private activity bonds within the State.

SECTION 2. Chapter 39B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§39B- Application of allocation.** The extent to which all or any part of an allocation made to a county or an issuer pursuant to section 39B-2 is applied to a project subject to the annual state ceiling shall be evidenced by a certificate of the issuer or the director of finance of a county, as applicable."

SECTION 3. Section 39B-1, Hawaii Revised Statutes, is amended to read as follows:

**"[§39B-1] Definitions.** Whenever used in this part, unless a different meaning clearly appears from the context:

"Annual state ceiling" means the principal amount of private activity bonds which may be issued in each calendar year by all issuers and counties in the State under [DEFRA.] the Internal Revenue Code of 1986, as the same may be amended.

## ACT 62

369.] “DEFRA” means the Federal Deficit Reduction Act of 1984, P.L. 98-

“Department” means the department of budget and finance.

“Governing body” means the councils of the counties, or any other body exercising the legislative powers of a county.

“Issuer” means any state department, board, commission, officer, or authority, or private not-for-profit corporation authorized under the laws of the State to issue private activity bonds.

“Private activity bond” shall have the same meaning as the term is defined in [DEFRA, section 621. (Section 103(n) of the federal Internal Revenue Code of 1954, as amended.)] the Internal Revenue Code of 1986, as the same may be amended.”

SECTION 4. Section 39B-2, Hawaii Revised Statutes, is amended to read as follows:

“**[§39B-2]** Allocation of annual state ceiling. (a) The annual state ceiling shall be allocated for each calendar year[, for so long as DEFRA is in effect,] in the following proportions:

- (1) An amount equal to fifty per cent of the annual state ceiling to the State;
- (2) An amount equal to [38.72] 37.55 per cent of the annual state ceiling to the city and county of Honolulu;
- (3) An amount equal to [5.13] 5.03 per cent of the annual state ceiling to the county of Hawaii;
- (4) An amount equal to [2.15] 2.41 per cent of the annual state ceiling to the county of Kauai; and
- (5) An amount equal to [4.00] 5.01 per cent of the annual state ceiling to the county of Maui.

(b) The department, with the approval of the governor, may assign all or any part of the allocation of the State to any issuer or any county for a specific calendar year or years. At the request of the department, any issuer or county to which any part of the State’s allocation has been assigned shall return all or part of the assignment, in which case the department may provide for its reassignment.

(c) The department may request return of all or any part of the allocations of one or more counties made pursuant to subsection (a), and may assign and reassign the allocation to any other county or issuer for a specified calendar year or years.

(d) A county, by resolution of its governing body, or any issuer, by written certificate of such issuer, may request additional [bond] allocations of the annual state ceiling from, or assign all or any part of its [bond] portion of the allocation of the annual state ceiling to, the State for a specified calendar year or years.”

SECTION 5. Section 356-292, Hawaii Revised Statutes, is repealed.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

## SECTION 8. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 63

S.B. NO. 393

A Bill for an Act Relating to Veterinary Medicine.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“**§26H-4 Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- [(4) Chapter 471 (Board of Veterinary Examiners)
- (5) (4) Chapter 441 (Cemeteries and Mortuaries)
- [(6) (5) Chapter 463 (Board of Detectives and Guards)
- [(7) (6) Chapter 455 (Board of Examiners in Naturopathy)

(b) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 468K (Travel Agencies)
- (4) Chapter 373 (Commercial Employment Agencies)
- (5) Chapter 442 (Board of Chiropractic Examiners)
- (6) Chapter 448 (Board of Dental Examiners)
- (7) Chapter 436E (Board of Acupuncture)

(c) The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 439 (Board of Cosmetology)
- (7) Chapter 454 (Mortgage Brokers and Solicitors)
- (8) Chapter 454D (Mortgage and Collection Servicing Agents)

(d) The following chapters are hereby repealed effective December 31, 1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 462A (Pilotage)
- (6) Chapter 438 (Board of Barbers)

(e) The following chapters are hereby repealed effective December 31, 1991:

ACT 63

- (1) Chapter 448H (Elevator Mechanics Licensing Board)
  - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
  - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
  - (4) Chapter 460 (Board of Osteopathic Examiners)
  - (5) Chapter 461 (Board of Pharmacy)
  - (6) Chapter 461J (Board of Physical Therapy)
  - (7) Chapter 463E (Podiatry)
- 1992: (f) The following chapters are hereby repealed effective December 31,
- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
  - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
  - (3) Chapter 440 (Boxing Commission)[.]
- 1997: (g) The following chapter is hereby repealed effective December 31,
- (1) Chapter 471 (Board of Veterinary Examiners).”

SECTION 2. Section 471-2, Hawaii Revised Statutes, is amended to read as follows:

“§471-2 License required. No person shall practice veterinary medicine, either gratuitously or for pay, or shall offer to so practice, or shall announce or advertise, publicly or privately, as prepared or qualified to so practice, or shall append the letters “Dr.” or affix any other letters to the person’s name with the intent thereby to imply that the person is a practitioner of veterinary medicine, without having a valid unrevoked license obtained from the board of veterinary examiners; provided that nothing in this chapter prevents or prohibits the following:

- (1) Any person from gratuitously treating animals in case of emergency;
- (2) The owner of any animal or animals and the owner’s full-time, regular employees from caring for and treating any animals belonging to the owner;
- (3) Any student enrolled in any veterinary school or college or any employee of a veterinarian from working under the direct supervision of a veterinarian;
- (4) Any person from practicing veterinary medicine in the employ of the United States government while engaged in the performance of the person’s official duties;
- (5) Any person licensed to practice veterinary medicine in any state, or any certified scientist or professional in animal care, from practicing in this State when in actual consultation with or under the sponsorship of veterinarians of this State; provided that the person licensed from another state, or the certified scientist or professional in animal care, shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State;
- (6) Any farmer from giving to another farmer the assistance customarily given in the ordinary practice of animal husbandry; or
- (7) Any applicant who meets the licensing requirements of practicing veterinary medicine under a veterinarian by permit; provided the applicant applies for and takes the first examination scheduled by the board. A permit shall not be renewed.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.



## SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 64

S.B. NO. 414

A Bill for an Act Relating to General Excise Tax Exemptions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 359G-15, Hawaii Revised Statutes, is amended to read as follows:

**“§359G-15 Exemption from general excise taxes.** (a) The authority may certify for exemption from general excise taxes any qualified person or firm involved with a newly constructed or rehabilitated project developed under this chapter[, ] or chapter 356[, ] or section 46-15.1].

[(b) In accordance with rules established by the authority, existing low and moderate income housing projects receiving government assistance under an agreement with a governmental body that regulates rents and operations of the projects may receive an exemption annually upon review and certification by the authority for any qualified period. The authority shall notify the department of taxation of any such certification provided to existing projects.

(c) [(b) All claims for exemption under this section shall be filed with and certified by the authority and forwarded to the department of taxation. Such exemption as filed and approved, shall not be considered a subsidy for the purpose of this chapter.

[(d) For the purpose of this section, “government assistance” means assistance under a low or moderate income housing program from the State or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise which is approved by the authority.]”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 65

S.B. NO. 434

A Bill for an Act Relating to Penalties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 189-16, Hawaii Revised Statutes, is amended to read as follows:

**“[[§189-16] Penalty.] Penalties. A person violating the provisions of section 189-15 or any of the sections in this part for which a penalty is not otherwise provided, or any rule of the department adopted thereunder, shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be punished as provided by law; provided that any punishment for any violation of the provisions of section 189-15 shall not be deemed to preclude the**

## ACT 66

State from bringing legal actions for damages to, or loss of, such fish aggregating devices.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 66

S.B. NO. 435

A Bill for an Act Relating to Fishing Regulations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 188, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§188- **Prohibition on disposal of fishing gear.** It is unlawful to discard or otherwise dispose of any fishing net, trap, or gear with netting, or parts thereof, in the waters of the State.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 67

S.B. NO. 442

A Bill for an Act Relating to Health Care Professionals.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## “CHAPTER HEALTH CARE PROFESSIONALS

§ -1 **Construction of laws.** The purpose of licensing health care professionals is to protect the public health and safety and the general welfare of the people of this State. The powers conferred upon licensing boards and the department by the applicable licensing statutes and by this chapter shall be liberally construed to carry out this purpose. Any license issued to a health care professional is a revocable privilege.

§ -2 **Definitions.** As used in this chapter:  
“Board” means the board of dental examiners, the board of medical examiners, the board of nursing, the board of osteopathic examiners, and the board of veterinary examiners.  
“Department” means the department of commerce and consumer affairs.

“Health care professional” includes physicians and surgeons and others licensed pursuant to chapters 453 and 460, podiatrists licensed pursuant to chapter 463E, dentists licensed pursuant to chapter 448, nurses licensed pursuant to chapter 457, and veterinarians licensed pursuant to chapter 471.

§ -3 Powers. (a) In addition to any other powers conferred by law, the boards shall have the following powers:

- (1) To establish by rule an inactive license category for those not currently practicing in the State, including the procedure and conditions for activation of the license;
- (2) To establish by rule a retired license category including the procedure and conditions for activation of the license;

(b) Notwithstanding any other law to the contrary, the boards and the department may communicate or cooperate with any federal, state, or county licensing board or agency, or any other federal, state, or county agency which is investigating an applicant or a licensee, on matters pertaining to the professional qualifications or fitness of the applicant or licensee. All disciplinary actions taken by the boards, including license denials, shall be matters of public record and be promptly reported by the board to any central disciplinary data bank or clearinghouse in the United States, to the state professional societies, to the state hospital association, and, upon request, to any health care facility. Voluntary surrender of, and voluntary limitations on, the license of any person shall be a matter of public record and shall be reported to the disciplinary banks or clearinghouses, to the state professional societies, to the state hospital association, and, upon request, to any health care facility in the State.

§ -4 Advisory committees. (a) The director of commerce and consumer affairs may establish advisory committees, the members of which shall serve as consultants to the boards in their review of health care professionals referred for possible disciplinary action and as experts to the department for investigations. The advisory committee shall be appointed by the director from a list of health care professionals submitted annually by the board for which an advisory committee is appointed.

The director shall develop an information sheet for each member describing the committee’s purpose, roles and responsibilities of members, and procedures used to carry out the committee’s work. When the board or director requests assistance from any member of the committee on a case, the board or director, as the case may be, shall make initial inquiries as may be necessary for the purpose of eliminating conflicts of interest prior to submission to any member of the committee.

(b) The membership of the advisory committee shall reflect, insofar as is practical, all areas of professional practice and include subgroupings of the major specialties. Each member of the committee shall serve until a new committee is established, or until the particular case for which the member was designated a consultant or expert has been concluded.

(c) All members of the advisory committee shall serve voluntarily and without compensation, but shall be paid reasonable allowances for travel and living expenses which may be incurred as a result of performance of their duties on the committee. The costs shall be paid by the department.

(d) There shall be no civil liability for any member of the advisory committee for any act done in furtherance of the purpose for which the advisory committee was established.”

SECTION 2. Section 453-8.5, Hawaii Revised Statutes, is repealed.

## ACT 68

SECTION 3. Section 453-17, Hawaii Revised Statutes, is amended to read as follows:

**“§453-17 Subpoena of peer review adverse decision report.** In connection with an investigation under section 453-7.5, the director of commerce and consumer affairs may issue subpoenas, pursuant to section 26-9(i), compelling the production of hospital records of patients whose cases were reviewed by a peer review committee that filed a report pursuant to section 663-1.7, as well as the full report reflecting the committee’s decision and the basis of that decision, notwithstanding section 624-25.5. A medical society, hospital, or health care facility shall expunge from the documents [specific] only the following patient identifiers[.]: name, address, telephone number, hospital identification number, and social security number. Information for investigation which was obtained through a subpoena shall be for the sole use by the department of commerce and consumer affairs to carry out its responsibilities and functions and shall be held confidential by the department, unless the information is admissible evidence at a hearing held under section 453-9. This investigation shall be deemed a sensitive matter related to public safety under section 92-5.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 68

S.B. NO. 447

A Bill for an Act Relating to Chiropractic.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 442-6, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) The applicant shall be required to pass parts I and II of the [national board of chiropractic examiners’] National Board of Chiropractic Examiners’ examination in order to qualify for the state chiropractic examination. The state examinations shall be designed to ascertain the fitness and qualifications of the applicant to practice chiropractic. The board may contract with professional testing services to prepare, administer, and grade the state examinations. The state examination may include both practical demonstration and a written examination. A license shall be granted to any applicant who attains a numerical score of seventy-five or higher in all subjects and sections of the state examination. Any applicant failing to make the required grade may be reexamined at the next regular examination upon payment of a reexamination fee. Any person seeking licensure under this chapter, including approval to use physiotherapy modalities, shall demonstrate to the satisfaction of the board that the person has received training in the use of physiotherapy modalities at an accredited institution and passed the physiotherapy portion of the National Board of Chiropractic Examiners’ examination. The board may require an applicant to complete a practical

demonstration examination which shall include an examination of the applicant's performance in using physiotherapy treatment techniques and equipment.

(d) No person licensed [as a] to practice chiropractic in this State shall use physiotherapy modalities without receiving approval by the board to do so. [The board by rule shall establish the criteria and procedures for granting this approval. Any person seeking licensure under this chapter, including approval to use physiotherapy modalities must demonstrate to the satisfaction of the board that the person has received training in the use of physiotherapy modalities at an accredited institution and passed the physiotherapy portion of the National Board of Chiropractic Examiners examination, in addition to the requirements of subsection (c). The board shall require an applicant for approval to use physiotherapy modalities to complete a practical demonstration examination which shall include an examination of the applicant's performance in using physiotherapy treatment techniques and equipment, with emphasis on the more complex and dangerous techniques. The practical demonstration examination shall use standardized questions of uniform difficulty for each applicant and provide for grading of each applicant by two examiners who shall grade independently and have had appropriate training in calibrated grading procedures.]

The board shall adopt rules for granting approval for the use of physiotherapy modalities by persons holding valid, current licenses under this chapter on June 4, 1984. The board may require any licensed chiropractor to take and pass a written or practical examination before granting approval to use physiotherapy modalities."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 69

S.B. NO. 448

A Bill for an Act Relating to Consumer Protection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 487-14, Hawaii Revised Statutes, is amended to read as follows:

"**§487-14 Restitution.** In any civil action brought by the director of the office of consumer protection to collect civil penalties or enjoin unlawful acts or practices, the court hearing the action may include in its orders or judgments such provisions as may be necessary to effect restitution to any person who [sustained damages] is injured as a result of the unlawful acts and practices which are the subject of the action and who [testified] submits proof of entitlement to restitution in the prosecution of the action. Any person in whose favor restitution is ordered need not accept restitution, but the person's acceptance and full performance of restitution shall bar recovery by the person of any other damages in any action on account of the same acts or practices against the person making restitution."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

## ACT 70

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 70

S.B. NO. 449

A Bill for an Act Relating to Optometry.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 459-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The applicants for examination shall be given due notice of the date and place of each examination. [An applicant who fails to pass an examination on the applicant’s first attempt, shall be permitted upon payment of a reexamination fee, to take a second or third examination covering only those parts of the examination which the applicant failed to pass. An applicant who fails to pass the examination on the third attempt or any subsequent attempt shall be required in each instance to file a new application, pay the application and examination fees, and take a complete examination.]

Any person aggrieved by the denial or refusal of the board to issue a license may submit a request for a contested case hearing pursuant to chapter 91 within sixty days of the date of the refusal or denial. An appeal to the circuit court of the circuit within which the applicant resides may be taken from [any decision of the board by any applicant who is refused or denied a license.] the board’s final order.

Every candidate who passes an examination shall be licensed as possessing the qualifications required by this chapter, and shall receive from the board a proper license upon payment of a license fee.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 71

S.B. NO. 450

A Bill for an Act Relating to Osteopathy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 460-1, Hawaii Revised Statutes, is amended to read as follows:

“**§460-1 License to practice.** No person shall practice as an osteopathic physician and surgeon either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce, either publicly or privately, that the person is prepared or qualified to so practice, or shall append the letters “Dr.” or the letters “D.O.” to the person’s name, with the intent thereby to imply that the person is a practitioner as an osteopathic physician and surgeon, without having a valid unrevoked license, obtained from the board

of osteopathic examiners, in form and manner substantially as hereinafter set forth.

Nothing herein shall:

- (1) Apply to any osteopathic physician and surgeon from another state who is in actual consultation with a licensed physician of this State if the physician from another state is licensed to practice in the state in which the physician resides; provided that the physician from another state shall not open an office, or administer treatment to any patient except in actual temporary consultation with a resident licensed physician of this State; or
- (2) Prohibit services rendered by any osteopathic physician's assistant when [such] the services are rendered under the supervision, direction, and control of an osteopathic physician and surgeon licensed in this State. Such direction and control shall not be construed in every case to require the personal presence of the supervising and controlling osteopathic physician and surgeon.], as may be specified by rule or statute. The board of osteopathic examiners shall adopt rules to define the type of supervision, direction, and control that must be maintained and the extent that the personal presence of the osteopathic physician and surgeon will be required. Any osteopathic physician and surgeon who employs or directs [a] an osteopathic physician's assistant shall retain full professional and personal responsibility for any act which constitutes the practice of osteopathic medicine and surgery when performed by [such] an osteopathic physician's assistant."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 72

S.B. NO. 451

A Bill for an Act Relating to Licensing of Psychologists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 465-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is created a board of psychology, within the department of commerce and consumer affairs for administrative purposes, consisting of seven members. In accordance with section 26-34, the governor shall appoint, with the advice and consent of the senate, five members representing varied specialties of the profession [from persons who would qualify for licensure under this chapter], each of whom shall be licensed to practice psychology under this chapter and have a minimum of five years of post-doctoral professional experience, and two lay members from the community at large. A lay member shall not be a psychologist, an applicant, or former applicant for licensure as a psychologist. The board shall elect one of its members to serve as chairman."

## ACT 72

SECTION 2. Section 465-6, Hawaii Revised Statutes, is amended to read as follows:

**“§465-6 Powers and duties.** The board shall:

- (1) Examine the qualifications of applicants for licensing under this chapter to determine their eligibility for licensing as psychologists and forward to the director the names of applicants who are eligible for licensing no later than ninety days after the date of application;
- (2) Prepare, administer, and grade examinations and tests for applicants as may be required for the purposes of this chapter. The board shall determine the scope and length of the examinations and tests, whether they shall be oral, written, or both and the score that shall be deemed a passing score. Examinations must be scheduled at least once annually;
- (3) Keep a record of action taken on all applicants for licensing; the names of all persons licensed; petitions for temporary permits; actions involving suspension, revocation, or denial of licenses; and recommendations for reciprocity] decisions on waiver of examination in whole or in part and receipt and disbursement of any moneys; and
- (4) Adopt, amend, and repeal pursuant to chapter 91, rules as it deems proper for the purposes of this chapter.”

SECTION 3. Section 465-10, Hawaii Revised Statutes, is amended to read as follows:

**“§465-10 [Reciprocity.] Examination waiver.** (a) The board may recommend licensing without written or oral examination of an applicant who has not previously failed to pass an examination in psychology prescribed by the board and who submits evidence satisfactory to the board that the applicant[:

- (1) Holds a doctoral degree from an accredited institution of higher education with training and education in the field of psychology adequate to the satisfaction of the board; and
- (2) Is certified or licensed, and in good standing, to practice psychology in another state deemed by the board to have standards equivalent to this chapter; or
- (3) Is a diplomate in good standing of the American Board of Examiners in Professional Psychology.] is certified or licensed, and in good standing, to practice psychology in another state deemed by the board to have standards equivalent to this chapter.

(b) The director shall issue a license under this section in the same manner and subject to the same conditions specified in section 465-8.”

SECTION 4. Section 465-11, Hawaii Revised Statutes, is amended to read as follows:

**“§465-11 Renewals.** (a) Every license issued under this chapter shall be renewed biennially on or before June 30 of each even-numbered year. Failure to renew a license shall suspend the license; provided that a psychologist whose license has been suspended for failure to renew may reinstate the license by payment of the renewal fee for the biennium in which the failure occurred, and provided that the period of suspension is not greater than one year. If licensing has lapsed for more than one year, the person may reapply



for a license in the manner prescribed in the previous sections of this chapter.

(b) A psychologist in good standing who will not be practicing in the State for at least one year may petition the board to have the psychologist's license placed on inactive status without penalty. When the psychologist wishes to return to practice, an application shall be made to the board for reinstatement upon payment of the license fee for the biennial period and subject to the board's review of the application as provided in its rules."

SECTION 5. Section 465-13, Hawaii Revised Statutes, is amended to read as follows:

**"§465-13 Denial, suspension, revocation of license, or probation of a license holder. (a)** The board shall refuse to grant a license to any applicant and may revoke or suspend any license, or may place a license, or may put a license holder on conditional probation, upon any of the following grounds:

- (1) Professional misconduct [or], gross carelessness [or], manifest incapacity, or incompetency in the practice of psychology;
- (2) Habitual use of narcotic drugs or any other substance which impairs the intellect and judgment to such an extent as to incapacitate the applicant or license holder for the practice of psychology;
- (3) Habitual drunkenness;
- (4) (2) Violation of this chapter by the applicant within one year of the application, or violation of this chapter by a license holder any time the license is valid; [or
- (5) (3) Any unethical practice of psychology as defined by the board in accordance with its own rules[.];
- (4) Fraud or deception in applying for or procuring a license to practice psychology as defined in section 465-1;
- (5) Conviction of a crime substantially related to the qualifications, functions, or duties of psychologists;
- (6) Wilful unauthorized communication of information received in professional confidence;
- (7) The suspension, revocation, or imposition of probationary conditions by another state of a license or certificate to practice psychology issued by that state if the act for which the disciplinary action was taken constitutes a violation of this chapter;
- (8) The commission of any dishonest, corrupt, or fraudulent act or any act of sexual abuse, or sexual relations with a client, or sexual misconduct which is substantially related to the qualifications, functions, or duties of a psychologist;
- (9) Harassment, intimidation, or abuse, sexual or otherwise, of a client or patient;
- (10) Exercising undue influence in the manner as to exploit the client or patient for financial or other personal advantage to the practitioner or a third party;
- (11) Conviction of fraud in filing medicaid claims or conviction of fraud in filing claims to any third party payor, for which a copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence;
- (12) Aiding or abetting any unlicensed person to engage in the practice of psychology;
- (13) Repeated acts of excessive treatment or use of diagnostic procedures as determined by the standard of the local community of licensees; or

## ACT 73

- (14) Inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, inebriation, or excessive use of any substance, or as a result of any mental or physical condition.

(b) The board at its discretion may order any licensee who is placed on probation or whose license is suspended to obtain additional training and to take an examination as prescribed by the board.”

SECTION 6. Section 465-15, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any person who violates this chapter shall be fined not more than [ \$500 ] \$1000 for each violation of this chapter or imprisoned not more than one year, or both.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 73

S.B. NO. 452

A Bill for an Act Relating to Dental Hygienists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 447-1, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Any person eighteen years of age or over and holding or having a diploma or a proper certificate of graduation from an accredited high school employing at least a four year course of instruction and likewise holding and having a diploma or proper certificate of graduation from [an American training] a dental hygiene school [for dental hygienists] accredited by the American Dental Association (A.D.A.) Commission on Dental Accreditation requiring at least a two year course, [accredited and] recognized by the board of dental examiners, upon written application made to and filed with the secretary of the board at least thirty days prior to the date selected by the board for the examination, may be examined by the board for qualification as a dental hygienist.

The application for examination shall be accompanied by the applicant's certificate of graduation, and at the time of filing the [same,] application, the applicant shall pay to the board application and examination fees, which fees, together with all other fees or charges in this chapter, shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, and shall be deposited with the director of finance to the credit of the general fund.

(b) Two examinations shall be held in each year at [such] the time [as] the board designates. The examinations shall cover subjects considered essential by the board for a dental hygienist and shall likewise include a practical examination on the removal of deposits or stains from the [exposed] surfaces of the teeth. The board shall furnish a chair and engine, but the applicant shall supply all necessary instruments, materials, and patients for the examination.”

SECTION 2. Section 447-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Clinical dental hygiene may be practiced by a licensed dental hygienist. The practice of clinical dental hygiene is defined as the removal of hard and soft deposits and stains from the portion of the crown and root surfaces to the depth of the gingival sulcus, polishing natural and restored surfaces of teeth, the application of preventive chemical agents to the coronal surfaces of teeth, which chemical agents have been approved by the board of dental examiners, and [may] the use [such] of mouth washes as are approved by the board, but shall not [perform] include the performing of any repair work or the preparation thereof, or any other operation on the teeth or tissues of the mouth; provided that nothing herein shall prohibit a dental hygienist from using or applying topically any chemical agent which has been approved in writing by the department of health for any of the purposes set forth in part V of chapter 321, and other procedures delegated by the dentist in accordance with the rules of the board of dental examiners.

In addition, a licensed, certified dental hygienist may [take dental impressions for study casts or] administer intra-oral infiltration local anesthetics under the direct supervision of a dentist; provided that the board of dental examiners shall establish a certification process not later than June 30, 1986, which shall include the establishment of criteria for a comprehensive course work, the completion of which shall be a prerequisite to a licensed dental hygienist taking a certification examination.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

## ACT 74

S.B. NO. 469

A Bill for an Act Relating to Unfair and Deceptive Practices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 481B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§481B- Sale of computers; disclosure requirements.** No person shall advertise, offer to sell, or sell a computer, if the person has removed or replaced or had removed or replaced any computer part or component from the computer as received from the manufacturer, unless the person conspicuously discloses in type of no less than eight point size, all parts removed or replaced in writing to the consumer.

As used in this section “computer” has the same meaning as defined in section 708-890.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Contractors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 444-18, Hawaii Revised Statutes, is amended to read as follows:

“**§444-18 Hearings.** In every case where it is proposed to [refuse to grant a license or to] revoke or suspend a license [or to refuse to renew a license,] or where a license application has been denied, the contractors license board shall give the person concerned [notice and] an opportunity for a hearing in conformity with chapter 91. [The notice shall be given in writing by registered or certified mail with return receipt requested at least fifteen days before the hearing.] The hearing whenever possible shall be held on the island on which the aggrieved party resides.

[In all proceedings before it, the board and each member thereof shall have the same powers respecting administering oaths, compelling the attendance of witnesses, and the production of documentary evidence, and examining witnesses as are possessed by circuit courts. In case of disobedience by any person of any order of the board, or any member thereof, or of any subpoena issued by it, or the member, or the refusal of any witness to testify to any matter regarding which the witness may be questioned lawfully, any circuit judge, on application by the board, or a member thereof, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein.]”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

A Bill for an Act Relating to the Practice of Medicine and Surgery.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 453-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any license to practice medicine and surgery may be revoked, limited, or suspended by the board of medical examiners at any time in a proceeding before the board, or may be denied, for any one or more of the following acts or conditions on the part of the holder of such license or the applicant therefor:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing any person to solicit patients for one’s self;
- (3) Engaging in false, fraudulent, or deceptive advertising, including, but not limited to:
  - (A) Making excessive claims of expertise in one or more medical specialty fields;
  - (B) Assuring a permanent cure for an incurable disease; or

- (C) Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;
- (4) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
  - (5) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
  - (6) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
  - (7) Professional misconduct [or], gross [carelessness] negligence, or manifest incapacity in the practice of medicine or surgery;
  - (8) [Negligence or incompetence,] Incompetence or multiple instances of negligence, including, but not limited to, the consistent use of medical service which is inappropriate or unnecessary;
  - (9) Conduct or practice contrary to recognized standards of ethics of the medical profession as adopted by the Hawaii Medical Association or the American Medical Association;
  - (10) Violation of the conditions or limitations upon which a limited or temporary license is issued;
  - (11) Revocation, suspension, or other disciplinary action by another state of a license or certificate for reasons as provided in this section;
  - (12) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a physician, notwithstanding any statutory provision to the contrary;
  - (13) Violation of chapter 329, uniform controlled substance act, or any rule adopted thereunder;
  - (14) Failure to report to the board, in writing, any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty days after the disciplinary decision is issued; or
  - (15) Submitting to or filing with the board any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement or omission of fact."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 77

S.B. NO. 589

A Bill for an Act Relating to Derelict Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 290-8, Hawaii Revised Statutes, is amended to read as follows:

## ACT 78

**“§290-8 Derelict vehicle.** A vehicle shall be deemed a derelict by the administrative head of the agency designated to carry out section 290-1 if major parts have been removed [so as to render] or material damage to the vehicle has rendered the vehicle inoperable and one of the following conditions exists:

- (1) The vehicle is registered for the current registration period and the registered and legal owners no longer reside at the addresses on record with the county director of finance;
- (2) The vehicle has been registered for the current or previous registration period and the registered and legal owners disclaim ownership;
- (3) The vehicle identification number and license plates have been removed so as to nullify efforts to locate or identify the current registered and legal owners;
- (4) The vehicle has not been registered for the current or previous registration periods;
- (5) The vehicle registration records of the county director of finance contain no record that the vehicle has ever been registered in the county; or
- (6) The vehicle is ten model years old or older.

Prior to authorizing the removal of a derelict vehicle, the administrative head of the agency designated to carry out section 290-1 must notify the county chief of police.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 78

S.B. NO. 590

A Bill for an Act Relating to License Plates of Stored Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 249-5, Hawaii Revised Statutes, is amended to read as follows:

**“§249-5 Exemptions for stored vehicles; refunds.** All vehicles taxable under sections 249-1 to 249-13, which are stored so that they are not used for transportation, or for the other purposes covered by section 249-2, shall be exempt from the tax imposed under this chapter for the period of storage; provided that the owner of each such vehicle shall first present to the director of finance a signed and sworn affidavit stating the fact of such storage, together with such other relevant facts as may be required by the director of finance and shall surrender the last issued certificate of registration, license plates, and emblem for such vehicle. If the affidavit, certificate of registration, license plates, and emblem are presented to the director of finance after the expiration of the vehicle's registration period, then the unpaid tax for each month the license plates could have been validated with an emblem plus the fee for the currently issued license plates and emblem shall be paid in full upon presenting the affidavit. Should the affidavit be presented to the director of finance after payment of the current year's tax, then a portion of the tax, for each full month remaining in such current year shall be refunded

upon completion of all storage requirements, but no refund shall be made for a period less than one month. The director of finance may dispose of the license plates for any vehicle whose registration has been expired for more than one year, and the owner shall be required to purchase new license plates and a new emblem upon removing the vehicle from storage.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 79

S.B. NO. 594

A Bill for an Act Relating to Hawaii Housing Authority—Housing Projects.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 359G-4.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The authority may develop, on behalf of the State or in partnership, or may assist under a government assistance program in the development of housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon; provided that:

- (1) The authority finds the project is consistent with the purpose and intent of this chapter, and meets minimum requirements of health and safety;
- (2) The development of the proposed project does not contravene any safety standards or tariffs approved by the public utilities commission for public utilities; and
- (3) The legislative body of the county in which the project is to be situated [or, where a land designation amendment is required, the land use commission] shall have approved the project.
  - (A) The legislative body [or land use commission] shall approve or disapprove the project within forty-five days after the authority has submitted the preliminary plans and specifications for the project to the legislative body [or land use commission]. If after the forty-fifth day a project is not disapproved, it shall be deemed approved by the legislative body [or land use commission].
  - (B) No action shall be prosecuted or maintained against any county, its officials, or employees, on account of actions taken by them in reviewing, approving, or disapproving the plans and specifications.
  - (C) The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and specifications for the project shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of sections 501-85 and 502-17, the executive director of the authority or the responsible county official may certify maps and plans of lands connected

ACT 80

with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and registrar.

- (4) The land use commission shall approve or disapprove a boundary change within forty-five days after the authority has submitted the petition to the commission as provided in section 205-4. If after the forty-fifth day the petition is not disapproved, it shall be deemed approved by the commission.

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

ACT 80

S.B. NO. 597

A Bill for an Act Relating to County Housing Powers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 46-15.1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) Any law to the contrary notwithstanding, any county may:
  - (1) Authorize and issue bonds under chapter 47 and chapter 49 to provide moneys to carry out the purposes of this section[,] or section 46-15.2, including the satisfaction of any guarantees made by the county pursuant to this section;
  - (2) Appropriate moneys of the county to carry out the purposes of this section;
  - (3) Obtain insurance and guarantees from the State or the United States, or subsidies from either;
  - (4) Designate, after holding a public hearing on the matter and with the approval of the respective council, any lands owned by it for the purposes of this section;
  - (5) Provide interim construction loans to partnerships of which it is a partner and to developers whose projects qualify for federally assisted project mortgage insurance, or other similar programs of federal assistance for persons of low and moderate income; and
  - (6) Adopt such rules pursuant to chapter 91 as are necessary to carry out the purposes of this section.”

SECTION 2. Section 46-15.2, Hawaii Revised Statutes, is amended to read as follows:

“**§46-15.2 Housing; additional county powers.** In addition and supplemental to the powers granted to counties by section 46-15.1, any county shall have and may exercise any of the following powers:

- (1) To provide assistance and aid to persons of low and moderate income in acquiring housing by providing loans secured by a mortgage, including by acquiring such loans from private lenders for which such county has made advance commitment to acquire such loans, and to make and execute contracts with



- private lenders or a public agency for the origination and servicing of such loans and pay the reasonable value of such services;
- (2) In connection with the exercise of any powers granted under this section or section 46-15.1, to establish one or more loan programs and to issue bonds under chapter 47 or 49 to provide moneys to carry out [such programs;] the purposes of this section or section 46-15.1; provided that:
- (A) If bonds are issued pursuant to chapter 47[,] to finance one or more loan programs, the county may establish such qualifications as it deems appropriate;
- (B) If bonds are issued pursuant to chapter 49[, any] to finance one or more loan programs, such loan program or programs shall comply with the provisions of part II of chapter 356;
- (C) If bonds are issued pursuant to section 47-2.1 or chapter 49, any loan program established pursuant to this section or any county-owned dwelling units constructed under section 46-15.1 shall be and constitute an "undertaking" under section 49-1 and the provisions of chapter 49 shall apply to such loan program or county-owned dwelling units to the extent applicable;
- (D) In connection with the establishment of any loan program pursuant to this section, a county may employ financial consultants, attorneys, real estate counselors, appraisers, and such other consultants as may be required in the judgment of the county and fix and pay their compensation from funds available to the county therefor;
- (E) Notwithstanding any limitation otherwise established by law, with respect to the rate of interest on any loan made under any loan program established pursuant to this section, such loan may bear such rate or rates of interest per year as the county shall determine; provided no loan made from the proceeds of any bonds of the county shall be under terms or conditions which would cause the interest on such bonds to be deemed subject to income taxation by the United States of America;
- (F) Notwithstanding any limitation otherwise established by law, with respect to the amount of compensation permitted to be paid for the servicing of loans made under any loan program established pursuant to this section, a county may fix such reasonable compensation as the county may determine;
- (G) Notwithstanding the requirement of any other law, a county may establish such separate funds and accounts with respect to [any loan program established] bonds issued pursuant to chapter 47 or 49 to provide moneys to carry out the purposes of this section or section 46-15.1 as such county may deem appropriate;
- (H) Notwithstanding any provision of chapter 47 or 49[,] or of any other law, but subject to the limitations of the State Constitution, bonds issued to [finance a loan program established pursuant to] provide moneys to carry out the purposes of this section or section 46-15.1 may be sold at public or private sale at such price [and bearing], may bear interest at such rate or rates per year, may be payable at

such time or times, may mature at such time or times, may be made redeemable before maturity at the option of the county, the holder, or both, at such price or prices and upon such terms and conditions, and may be issued in coupon or registered form, or both, all as the county may determine;

- (I) If deemed necessary or advisable, the county may designate a national or state bank or trust company within or without the State to serve as trustee for the holders of bonds issued to [finance a loan program established pursuant to] provide moneys to carry out the purposes of this section or section 46-15.1 and enter into a trust indenture, trust agreement, or indenture of mortgage with such trustee whereby such trustee may be authorized to receive and receipt for, hold, and administer the proceeds of such bonds and to apply the proceeds to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the revenues and other receipts derived by the county [under the loans made] from the application of the proceeds of such bonds and to apply such revenues and receipts to the payment of the principal of, or interest on such bonds, or both. Any such trust indenture, trust agreement, or indenture of mortgage entered into with the trustee may contain any covenants and provisions as may be deemed necessary, convenient, or desirable by the county in order to secure such bonds. The county may pledge and assign to the trustee any agreements related to the [loans financed from] application of the proceeds of such bonds and the rights of the county thereunder, including the rights to revenues and receipts derived thereunder. Upon appointment of the trustee, the director of finance may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of such bonds, or may elect to limit the functions the director of finance performs as such fiscal agent, and may appoint the trustee to serve as the fiscal agent, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the director of finance deems necessary, advisable, or expedient, including, without limitation, the holding of such bonds and coupons which have been paid and the supervision and conduction or the destruction thereof in accordance with law;
- (J) If a trustee is not appointed to collect, hold, and administer the proceeds of bonds issued to [finance a loan program established pursuant to] provide moneys to carry out the purposes of this section[,] or section 46-15.1, or the revenues and receipts derived by the county [under the loans made] from the application of the proceeds of such bonds, all as provided in subparagraph [(G),] (I), the director of finance of such county may hold such proceeds or revenues and receipts, as the case may be, in a separate account in the treasury of the county, to be applied solely to the

- carrying out of the ordinance, trust indenture, trust agreement, or indenture of mortgage, if any, authorizing or securing such [special purpose revenue] bonds; and
- (K) Any law to the contrary notwithstanding the investment of funds held in reserves and sinking funds related to bonds issued to provide moneys to carry out the purposes of this section or section 46-15.1 shall comply with the provisions of section 356-214; provided that any investment which requires approval by the county council pursuant to section 46-48 or 46-50 must first be approved by the county council.
- (3) To acquire such policies of insurance and enter into such banking arrangements as such county may deem necessary in order to better secure bonds issued to [finance a loan program established pursuant to] provide money to carry out the purposes of this section; and] or section 46-15.1 including, without limitation, contracting for a support facility or facilities as may be necessary with respect to bonds issued with a right of the holders to put such bonds and contracting for interest rate swaps; and
- (4) To do any and all other things necessary or appropriate to carry out the purposes and exercise the powers granted in section 46-15.1 and this section.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 81

S.B. NO. 611

A Bill for an Act Relating to Service-Connected Occupational Disability Retirement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-79, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In the case of firefighters, police officers, and sewer workers, the effect of the inhalation of smoke, toxic gases, chemical fumes, and other toxic vapors on the heart, lungs, and respiratory system shall be construed as an injury received or disease contracted while in the performance of their duty and as the result of some occupational hazard for the purpose of determining occupational disability retirement under this section.

Notwithstanding any<sup>1</sup> law to the contrary, any condition of impairment of health caused by any disease of the heart, lungs, or respiratory system, resulting in permanent incapacity to a firefighter, police officer, or sewer worker, shall be presumed to have been suffered in the actual performance of duty at some definite time and place through no wilful negligence on the firefighter’s, police officer’s, or sewer worker’s part, and as a result of the inherent occupational hazard of exposure to and inhalation of smoke, toxic gases, chemical fumes, and other toxic vapors, unless the contrary be shown by competent evidence; provided that such firefighter, police officer, or sewer worker shall have passed a physical examination on entry into such

## ACT 82

service or subsequent to such entry, which examination failed to reveal any evidence of such condition.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

### Notes

1. Prior to amendment, “other” appeared here.
2. No bracketed material.

## ACT 82

S.B. NO. 778

A Bill for an Act Relating to Protection of Hawaii’s Native Flora and Fauna.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Hawaii has several rare species of plants, animals, and fish which are found nowhere else in the world. The legislature also finds that Hawaii has sizable areas of high quality native forests which are not placed into the conservation district. To the maximum extent practical, it is the intention of the legislature to preserve Hawaii’s unique native flora and fauna by reclassifying such areas as conservation districts.

SECTION 2. Chapter 195D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§195D- Protection of Hawaii’s unique flora and fauna.** The department of land and natural resources shall initiate amendments to the conservation district boundaries consistent with section 205-4 in order to include high quality native forests and the habitat of rare native species of flora and fauna within the conservation district. The department may seek assistance from appropriate public, private, and nonprofit agencies and may employ consultants as necessary to implement this section.”

SECTION 3. Section 205-2, Hawaii Revised Statutes, is amended to read as follows:

**“§205-2 Districting and classification of lands.** There shall be four major land use districts in which all lands in the State shall be placed: urban, rural, agricultural, and conservation. The land use commission shall group contiguous land areas suitable for inclusion in one of these four major districts. The commission shall set standards for determining the boundaries of each district, provided that:

- (1) In the establishment of boundaries of urban districts those lands that are now in urban use and a sufficient reserve area for foreseeable urban growth shall be included;
- (2) In the establishment of boundaries for rural districts, areas of land composed primarily of small farms mixed with very low density residential lots, which may be shown by a minimum density of not more than one house per one-half acre and a minimum lot size of not less than one-half acre shall be included, except as herein provided;

- (3) In the establishment of the boundaries of agricultural districts the greatest possible protection shall be given to those lands with a high capacity for intensive cultivation; and
- (4) In the establishment of the boundaries of conservation districts, the "forest and water reserve zones" provided in section 183-41 are renamed "conservation districts" and, effective as of July 11, 1961, the boundaries of the forest and water reserve zones theretofore established pursuant to section 183-41, shall constitute the boundaries of the conservation districts; provided that thereafter the power to determine the boundaries of the conservation districts shall be in the commission.

In establishing the boundaries of the districts in each county, the commission shall give consideration to the master plan or general plan of the county.

Urban districts shall include activities or uses as provided by ordinances or regulations of the county within which the urban district is situated.

Rural districts shall include activities or uses as characterized by low density residential lots of not more than one dwelling house per one-half acre in areas where "city-like" concentration of people, structures, streets, and urban level of services are absent, and where small farms are intermixed with low density residential lots except that within a subdivision, as defined in section 484-1, the commission for good cause may allow one lot of less than one-half acre, but not less than 18,500 square feet, or an equivalent residential density, within a rural subdivision and permit the construction of one dwelling on such lot, provided that all other dwellings in the subdivision shall have a minimum lot size of one-half acre or 21,780 square feet. Such petition for variance may be processed under the special permit procedure. These districts may include contiguous areas which are not suited to low density residential lots or small farms by reason of topography, soils, and other related characteristics.

Agricultural districts shall include activities or uses as characterized by the cultivation of crops, orchards, forage, and forestry; farming activities or uses related to animal husbandry, aquaculture, game and fish propagation; aquaculture, which means the production of aquatic plant and animal life for food and fiber within ponds and other bodies of water; wind generated energy production for public, private and commercial use; services and uses accessory to the above activities including but not limited to living quarters or dwellings, mills, storage facilities, processing facilities, and roadside stands for the sale of products grown on the premises; wind machines and wind farms; agricultural parks; and open area recreational facilities, including golf courses and golf driving ranges, provided that they are not located within agricultural district lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A or B.

These districts may include areas which are not used for, or which are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics.

Conservation districts shall include areas necessary for protecting water-sheds and water sources; preserving scenic and historic areas; providing park lands, wilderness, and beach reserves; conserving indigenous or endemic plants, fish, and wildlife; including those which are threatened or endangered; preventing floods and soil erosion; forestry; open space areas

## ACT 83

whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding communities, or would maintain or enhance the conservation of natural or scenic resources; areas of value for recreational purposes; other related activities; and other permitted uses not detrimental to a multiple use conservation concept.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 83

S.B. NO. 784

A Bill for an Act Relating to Gambling Offenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 712-1221, Hawaii Revised Statutes, is amended to read as follows:

“**§712-1221 Promoting gambling in the first degree.** (1) A person commits the offense of promoting gambling in the first degree if he knowingly advances or profits from gambling activity by:

- (a) Engaging in bookmaking to the extent that he receives or accepts in any [one day] seven-day period more than five bets totaling more than \$500; or
- (b) Receiving in connection with a lottery, or mutuel scheme or enterprise, money or written records from a person other than a player whose chances or plays are represented by such money or records; or
- (c) Receiving or having become due and payable in connection with a lottery, mutuel, or other gambling scheme or enterprise, more than \$1,000 in any [one day] seven-day period played in the scheme or enterprise.

(2) Promoting gambling in the first degree is a class C felony.”

SECTION 2. Section 712-1222, Hawaii Revised Statutes, is amended to read as follows:

“**§712-1222 Promoting gambling in the second degree.** (1) A person commits the offense of promoting gambling in the second degree if he knowingly advances or profits from gambling activity.

(2) Promoting gambling in the second degree is a misdemeanor.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 84

A Bill for an Act Relating to Appeals in Criminal Cases.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 641-13, Hawaii Revised Statutes, is amended to read as follows:

“§641-13 **By State in criminal cases.** An appeal may be taken by and on behalf of the State from the district or circuit courts to the supreme court subject to chapter 602, in all criminal cases, in the following instances:

- (1) From an order or judgment quashing, setting aside, or sustaining a motion to dismiss, any indictment or [information] complaint or any count thereof;
- (2) From an order or judgment, sustaining a special plea in bar, or dismissing the case where the defendant has not been put in jeopardy;
- (3) From an order granting a new trial;
- (4) From an order arresting judgment;
- (5) From a ruling on a question of law adverse to the State where the defendant was convicted and appeals from the judgment;
- (6) From the sentence, on the ground that it is illegal;
- (7) From a pre-trial order granting a motion for the suppression of evidence, including a confession or admission, or the return of property in which case the intermediate appellate court or the supreme court, as the case may be, shall give priority to such an appeal and the order shall be stayed pending the outcome of the appeal;
- (8) From an order denying a request by the State for protective order for nondisclosure of witness for their personal safety under Rule 16(e)(4) of the Hawaii Rules of Penal Procedure, in which case the intermediate court or the supreme court, as the case may be, shall give priority to such appeal and the order shall be stayed pending outcome of such appeal;
- (9) From a judgment of acquittal following a jury verdict of guilty.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 85

A Bill for an Act Relating to Witness and Defendant's Expenses; Cost of Extradition.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 621-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Whenever the presence of a defendant in a criminal case or in a proceeding under chapter 704 or a petitioner in a post conviction proceeding who is outside the judicial circuit is mandated by court order or bench

## ACT 86

warrant to appear, the cost of airfare, ground transportation, any per diem for both the defendant or petitioner and sufficient law enforcement officers to effect the defendant's or petitioner's return, shall be borne by the State. All such expenses shall be certified by the court or public prosecutor or the attorney general. Duly certified claims for payment shall be paid upon vouchers approved by the state director of finance and warrants drawn by the state comptroller. For post conviction proceedings only, and at the discretion and order of the court, the defendant or petitioner returned to the State of Hawaii shall reimburse the State for the costs of such extradition as specifically described above."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 86

S.B. NO. 882

A Bill for an Act Relating to Seed Distribution.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 150-41, Hawaii Revised Statutes, is amended to read as follows:

**"§150-41 Seed distribution program; revolving fund.** There is established a revolving fund the purpose of which shall be to enable the seed distribution program to operate at a level which will adequately meet the demand for seed. The fund shall be used for the cultivation and production of seeds and for research and developmental purposes directly related to such cultivation and production. The fund shall be administered by the college of tropical agriculture and human resources. All sums withdrawn from the fund shall be reimbursed or restored thereto from the proceeds realized through the sale of seeds. The college of tropical agriculture and human resources shall submit an annual report summarizing receipt and expenditures and the fund balance of the revolving fund to the department of budget and finance. The first annual report shall be due within six months following the initial twelve-month period that the revolving fund is in operation and shall be due annually thereafter not later than September 30 following the end of the immediately preceding fiscal year.

The seed distribution revolving fund shall remit any moneys in excess of [\$35,000] \$70,000 to the state general fund at the end of each fiscal year."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 87

S.B. NO. 934

A Bill for an Act Relating to the Facilitation of Permit Processing.

*Be It Enacted by the Legislature of the State of Hawaii:*



SECTION 1. This Act amends Act 237, Session Laws of Hawaii 1985, as follows:

“SECTION 1. **Short title.** This Act shall be known and may be cited as the “Permit Process Facilitation Act [of 1985]”.

SECTION 2. **Findings.** A large number of federal, state, and county agencies and authorities have jurisdiction and may grant or deny their approval and issue or withhold permits for projects in the State. Agencies may disagree as to the requirements to be imposed on each applicant; hearings and data requirements may overlap or duplicate each other; and some agencies may prefer not to act until others take action first.

In 1977, central coordinating agencies were established in each of the four counties. Their operation improved the permit and approval process by providing a central source of information on county permit and approval requirements. Based on the county experience, improvements can be made in state permit and approval processes. There are also opportunities to further facilitate the regulatory process for projects that require permits and approvals from different levels of government. The legislature finds that it would be beneficial to designate a lead agency for permit process facilitation and the development of opportunities for streamlining the permit process.

SECTION 3. **Purpose.** The purpose of this Act is to authorize the department of planning and economic development to facilitate, expedite, and coordinate state agency and inter-governmental permit processes. The agency may facilitate the permit process through a consolidated application procedure, through information services, and through efforts to streamline the permit process. It is the further purpose of this Act to authorize and establish procedures by which federal, state, and county agencies and authorities may consolidate their review and action on permit applications for projects in the State. These procedures for state agencies and authorities are mandatory, and for federal and county agencies voluntary.

SECTION 4. Chapter 201, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . FACILITATION OF PERMIT PROCESSING**

§201- **Definitions.** As used in this part, unless the context otherwise requires:

“Department” means the department of planning and economic development.

“Permit” means any license, permit, certificate, certification, approval, compliance schedule, or other similar document or decision pertaining to any regulatory or management program which is related to the protection, conservation, use of, or interference with the natural resources of land, air, or water in the State, and which is required prior to constructing or operating a project.

“Project” means any land or water use activity or any construction or operation which requires permits from one or more state agencies or permits from a state agency and a county or federal agency. Construction or operation of an activity may include, but need not be limited to housing, industrial, and commercial operations and developments.

§201- **Consolidation<sup>1</sup> application process.** State agencies are required and county agencies are authorized and encouraged to participate in the consolidated application process set forth herein. The department shall

## ACT 87

serve as a lead agency for the consolidated application procedure. The procedure shall be as follows:

- (1) The applicant for two or more state permits may apply in writing to the department requesting a consolidated application process for the consideration of [his] the application. The written request shall include sufficient data about the proposed project for the department to determine which other agencies or authorities may have jurisdiction.
- (2) Upon receiving a written request for the consolidated application process, the department shall notify all federal, state, and county agencies or authorities which the department determines may have jurisdiction over part or all of the proposed project, and require those state agencies or authorities and invite those county and federal agencies or authorities to participate in the consolidated application process.
- (3) The applicant and each agency or authority required or agreeing to participate in the consolidated application process shall designate a representative to serve on the consolidated application review team.
- (4) Any state agency or authority designated by the department as a party to an application review that is not able to participate, shall submit an explanation, in writing, to the department as to the reasons and circumstances for non-compliance.
- (5) The representatives of the agencies, authorities, and the applicant may develop and sign a joint agreement among themselves identifying the members of the consolidated application review team, specifying the regulatory and review responsibilities of each government agency and setting forth the responsibilities of the applicant, and establishing a timetable for regulatory review, the conduct of necessary hearings, preparation of an environmental impact statement if necessary, and other actions required to minimize duplication and coordinate the activities of the applicant, agencies, and authorities.
- (6) Each agency or authority shall issue its own permit or approval based upon its own jurisdiction. The consolidated application process shall not affect or invalidate the jurisdiction or authority of any agency under existing law.
- (7) The applicant must apply directly to each federal or county agency which does not participate in the consolidated application process.

### **§201- Information services.** The department shall:

- (1) Operate a permit information and coordination center for public use during normal working hours, which provides guidance in regard to the permits and procedures that may apply to specific projects; and
- (2) Maintain and update a repository of the laws, rules [and regulations], procedures, permit requirements, and criteria of federal, state, and county agencies having control or regulatory power over land and water use for development or the control or regulatory power over natural, cultural, or environmental resources.

### **§201- Streamlining activities.** The department may:

- (1) Monitor permits on an ongoing basis to determine the source of inefficiencies, delays, and duplications and the status of permits in progress;
- (2) Pursue the implementation of streamlining measures including, but not necessarily limited to, those measures defined in consultation with affected state agencies, county central coordinating agencies, and members of the public; and
- (3) Design applications, checklists, and other forms essential to the implementation of approved streamlining measures in coordination with involved state and county regulatory agencies, and members of the public.

**§201- Reporting.** The department shall report biennially to the legislature on actions taken, problems encountered, and legislative actions that may be needed to further implement the intent of this part.”

SECTION 5. This Act shall take effect upon its approval [and shall be repealed on June 30, 1987].”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

Note

1. So in original.

ACT 88

S.B. NO. 959

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171-37, Hawaii Revised Statutes, is amended to read as follows:

**“§171-37 Lease restrictions; intensive agricultural and pasture uses.** In addition to the restrictions provided in section 171-36, the following restrictions shall apply to all leases for intensive agricultural and pasture uses:

- (1) The lease term shall be not less than fifteen years nor more than thirty-five years, except that if the type of disposition requires the lessee to occupy the premises as the lessee’s own personal residence, it may be longer than thirty-five years, but not in excess of seventy-five years, and except in the case of a tree-crop orchard lease the term of which shall not be in excess of forty-five years.
- (2) If the land being leased is not immediately productive and requires extensive expenditures for clearing, conditioning of the soil, the securing of water, the planting of grasses, or the construction of improvements, as the result of which a longer term is necessary to amortize the lessee’s investment, then the lease term may be longer than thirty-five years, but not in excess of fifty-five years.
- (3) The land leased hereunder, or any portion thereof, shall be subject to withdrawal by the board of land and natural resources

at any time during the term of the lease with reasonable notice and without compensation, except as provided herein, for public uses or purposes, including residential, commercial, industrial, or resort developments, for constructing new roads or extensions, or changes in line or grade of existing roads, for rights-of-way and easements of all kinds, and shall be subject to the right of the board to remove soil, rock, or gravel as may be necessary for the construction of roads and rights-of-way within or without the demised premises; provided that upon the withdrawal, or upon the taking which causes any portion of the land originally demised to become unusable for the specific use or uses for which it was demised, the rent shall be reduced in proportion to the value of the land withdrawn or made unusable, and if any permanent improvement constructed upon the land by the lessee is destroyed or made unusable in the process of the withdrawal or taking, the proportionate value thereof shall be paid based upon the unexpired term of the lease; provided further that no withdrawal or taking shall be had as to those portions of the land which are then under cultivation with crops until the crops are harvested, unless the board pays to the lessee the value of the crops[.]; and provided further that upon withdrawal any person with a long-term lease shall be compensated for the present value of all permanent improvements in place at the time of withdrawal that were legally constructed upon the land by the lessee to the leased land being withdrawn. In the case of tree crops, the board shall pay to the lessee the residual value of the trees taken and, if there are unharvested crops, the value of the crops also.

“Tree-crop”, as used in this section, shall be exclusive of papaya and banana.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

ACT 89

S.B. NO. 979

A Bill for an Act Relating to Expenditure of Public Money.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 103-34, Hawaii Revised Statutes, is amended to read as follows:

**“§103-34 Contractor’s bond, conditions.** Before any contract is entered into, the party with whom the contract is proposed to be made shall give security for the performance thereof by a good and sufficient bond conditioned for the full and faithful performance of the contract in accordance with the terms and intent thereof and also for the prompt payment to all others for all labor and materials furnished by them to him and used in the prosecution of the work provided for in the contract[.]; provided that this requirement shall not apply to any price-term, open-end, or requirements contract for materials under which the total amount to be paid to the contractor for materials cannot be estimated at the time the contract is to be

awarded.<sup>1</sup> The bond shall be in an amount equal to fifty per cent of the contract price including amounts estimated to be required for extra work, or in the case of a price-term, open-end, or requirements contract for labor under which the total amount to be paid for labor to the contractor cannot be accurately estimated at the time the contract is to be awarded, the bond amount shall be as designated in the bid documents; provided that in the case of a contract for the construction of public works, buildings, roads, or other site improvements, the bond shall be in an amount equal to one hundred per cent of the contract price, including amounts estimated to be required for extra work. The bond shall also by its terms inure to the benefit of any and all persons entitled to file claims for labor performed or materials furnished in the work so as to give them a right of action as contemplated by section 507-17.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

Note

1. Period should be underscored.

ACT 90

S.B. NO. 980

A Bill for an Act Relating to Accounting of Government Assets.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 106, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§106- State telecommunications site and equipment maintenance revolving fund.** There is established a revolving fund which shall be used to defray the costs of properly maintaining radio transmitter and receiver sites and facilities located on state-owned or controlled premises. All moneys collected from various government agencies and business organizations for the maintenance of these sites and facilities shall be deposited into the revolving fund. Expenditures from the revolving fund shall be made by the director of finance. The director of finance shall prepare and submit to the legislature a complete and detailed annual report of the scope of activities being carried out not later than twenty days prior to the convening of each regular session.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

Note

- 1: Edited pursuant to HRS §23G-16.5.

## A Bill for an Act Relating to Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 141-1, Hawaii Revised Statutes, is amended to read as follows:

**“§141-1 Duties in general.** The department of agriculture shall:

- (1) Information and statistics. Gather, compile, and tabulate, from time to time, information and statistics concerning:
  - (A) Entomology and plant pathology. Insects, scales, blights, and diseases injurious, or liable to become injurious, to trees, plants, or other vegetation, and the ways and means of exterminating [such] pests and diseases [as are] already in the State and preventing the introduction of those not yet here;
  - (B) General agriculture. Fruits, fibres, and useful or ornamental plants and their introduction, development, [and] care, and [concerning the] manufacture or exportation [of the same], with a view to introducing, establishing, and fostering new and valuable plants and industries.
- (2) Cooperation with other organizations. [In all respects endeavor, as far as possible, to encourage and work in harmony] Encourage and cooperate with the [federal Agricultural Experiment Station established in the State] agricultural extension service and agricultural experiment station of the University of Hawaii and all private persons [or] and organizations doing work of an experimental or educational character coming within the scope of the subject matter of chapters 141, 142, and 144 to 149A, and [to] avoid, as far as practicable, duplicating the work of [such] those persons [or] and organizations;
- (3) Agreements with other organizations. Upon approval of the governor, enter into contracts, cooperative agreements, or other transactions with any person, agency, or instrumentality of the United States, a foreign nation, a state, a territory, or a possession, or with any political subdivision thereof, as may be necessary in the conduct of the department’s business and on such terms as the department may deem appropriate; provided that the department shall not obligate any funds of the State, except the funds that have been appropriated to the department;
- (4) Library. Secure copies of the laws of other states, territories, and countries, and other publications germane to the subject matters of chapters 141, 142, and 144 to 149A, and make the [same] laws and publications available for public information and consultation;
- (5) Buildings and apparatus. Provide [such] buildings, grounds, apparatus, and appurtenances [as may be] necessary [or proper] for the examination, quarantine, inspection, and fumigation provided for by chapters 141, 142, and 144 to 149A; [and] for the obtaining, propagation, study, and distribution of beneficial insects, growths, and antidotes for the eradication of insects, blights, scales, or diseases injurious to vegetation of value and for the destruction of injurious vegetation; and [also any other

- apparatus or appurtenances necessary or proper] for [the purposes of] carrying out any other purposes of chapters 141, 142, and 144 to 149A [into execution];
- (6) Further legislation. Formulate and [from time to time] recommend to the governor and legislature [such] additional legislation [as it deems] necessary or desirable for [the better securing of the objects] carrying out the purposes of chapters 141, 142, and 144 to 149A;
  - (7) Annual reports. [Make and publish,] Publish at the end of each year[,] a report of the expenditures and proceedings of the department and of the results achieved by the department, together with [such] other matters [as are] germane to [the subject matter of] chapters 141, 142, and 144 to 149A, and which the department may deem proper;
  - (8) Planning and development. Administer a program of agricultural planning and development, including the formulation and implementation of general and special plans, including but not limited to the functional plan for agriculture; administer the planning, development, and management of agricultural park projects; review, interpret, and make recommendations with respect to public policies and actions relating to agricultural land use; assist in research, evaluation, development, enhancement, and expansion of local agricultural industries; and serve as liaison with other public agencies and private organizations for the above purposes. In the foregoing, the department of agriculture shall act to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and ensure the availability of agriculturally suitable lands;
  - (9) Notification to office of environmental quality control. Notify the office of environmental quality control whenever a pesticide registration exemption in Hawaii is applied for or requested from the Environmental Protection Agency or any successor agency.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 92

S.B. NO. 982

A Bill for an Act Relating to Noxious Weed Control.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 152-1, Hawaii Revised Statutes, is amended to read as follows:

“§152-1 **Definitions.** For the purpose of this chapter, unless otherwise required by context:

“Control noxious weed” means to limit the spread of a specific noxious weed and to reduce its density to a degree where its injurious, harmful, or deleterious effect is reduced to a tolerable level.

## ACT 92

“Cooperative agreement” means an agreement between the department and the landowner and land occupier for the control or eradication of a noxious weed infestation.

“Department” means the department of agriculture.

“Eradicate noxious weed” means to completely destroy and eliminate existing plant growth, seeds, and vegetative reproductive plant parts of a specific noxious weed from a given locality.

“Land occupier” means a person who occupies, resides on, or utilizes land or real estate of a landowner.

“Landowner” means the possessor of a fee simple absolute title in land or real estate and shall include the State [as well as] and its political subdivisions in their capacities as owners of public lands.

“Noxious weed” means [gorse and] any [other] plant species which is [injurious, harmful or deleterious], or which may be likely to become [so], injurious, harmful, or deleterious to the agricultural, horticultural, aquacultural, or livestock [industries] industry of the State[,] and to forest and recreational areas and conservation districts of the State, as determined and [so] designated by the department from time to time.

“Person” means any individual, firm, corporation, association, or partnership.”

SECTION 2. Section 152-2, Hawaii Revised Statutes, is amended to read as follows:

“§152-2 Rules [and regulations]. [The department of agriculture shall have all powers necessary to carry out and to effectuate this chapter, by rules and regulations including but not limited to the following:] Subject to chapter 91, the department may make rules to effectuate this chapter, including but not limited to the following:

- (1) [To establish] Establishment of criteria and procedures for the designation of plant species as noxious weeds for the purposes of this chapter;
- (2) [To establish] Establishment of procedures and conditions for the initiation of cooperative agreements with landowners and land occupiers for the purpose of eradicating or controlling noxious weed infestations;
- (3) [To promulgate necessary rules and regulations necessary to control or eradicate] Control or eradication of noxious weeds when deemed economically feasible[; provided that all rules and regulations shall be in compliance with all other laws concerning the making of rules and regulations which shall have the force and effect of law].”

SECTION 3. Section 152-3, Hawaii Revised Statutes, is amended to read as follows:

“§152-3 Prohibited acts. It shall be unlawful to introduce or to transport specific noxious [weed, its seed or its] weeds or their seeds or vegetative reproductive parts into any area designated pursuant to section 152-5 as free or reasonably free of [such] those noxious [weed] weeds; provided that [said] the introduction or transportation of those noxious weeds may be permitted for educational or research purposes when authorized by a permit issued by the department.”

SECTION 4. Section 152-4, Hawaii Revised Statutes, is amended to read as follows:



**“§152-4 Designation of noxious weed.** The department may designate certain plant species as noxious weeds following the criteria and procedures [promulgated by regulations] established under section 152-2(1). The department shall publish and [shall] make available a list of noxious weeds to interested persons.”

SECTION 5. Section 152-5, Hawaii Revised Statutes, is amended to read as follows:

**“§152-5 Designation of areas declared free or reasonably free of noxious weeds.** The department may declare the entire State, an island, or a section of an island as free or reasonably free of a specific noxious weed. The department shall take necessary measures to restrict the introduction and establishment of specific noxious weeds in areas declared free or reasonably free of [such] those noxious weeds.”

SECTION 6. Section 152-6, Hawaii Revised Statutes, is amended to read as follows:

**“§152-6 Duties of the department; noxious weed control and eradication.** (a) The department [of agriculture] shall maintain a constant vigilance for incipient infestations of specific noxious weeds on islands declared reasonably free from [such] those weeds, and shall use [such] those procedures and methods to control or eradicate [such] the infestations of noxious weeds as are determined to be feasible and practicable.

(b) When the department determines that an infestation of a certain noxious weed exists on an island declared reasonably free from the weed, the department shall immediately conduct [such] investigations and surveys as are necessary to determine the feasibility and practicability of [control or eradication of] controlling or eradicating the infestation. The department may also conduct investigations and surveys to determine the feasibility and practicability of controlling widespread noxious weed infestations. The methods of control or eradication adopted by the department for any noxious weed infestation shall cause as little damage to crops and property as possible.

(c) Upon determining that control or eradication of an infestation is practicable and feasible, the department shall immediately serve notice, either oral or written, on both the landowner of the property and the occupant of the property on which the infestations exist. Written notice sent to the landowner’s address last known to the department by [registered] certified mail, postage prepaid, return receipt requested, shall be deemed sufficient notice. The notice shall set forth all pertinent information with respect to the infestation and notify the landowner and the land occupant of the procedure and methods of control or eradication.

(d) Upon the department’s notification pursuant to subsection (c) above, the department may enter into a cooperative agreement with the landowner and land occupier for the control or eradication of [said] the noxious weed infestation. The procedures and conditions for executing the cooperative agreement shall be in accordance with rules [and regulations] adopted under section 152-2(2).

(e) Upon the department’s notification pursuant to subsection (c) above, the department may entirely undertake the eradication or control project when it has been determined that the owner, occupier, or lessee of the land on which the noxious weed infestation is located will not benefit materially or financially by the control or eradication of [said] the noxious weed; or when the noxious weed infestation is on [state owned] state-owned land not leased or under control of private interest.”

## ACT 93

SECTION 7. Section 152-7, Hawaii Revised Statutes, is amended to read as follows:

**“§152-7 Entry of private property for the control of any noxious weed.** Whenever any [member] representative of the department or [any member of] a county agency duly authorized to maintain a noxious weed control program determines that there is an infestation of noxious weed on private property and that [such] the infestation poses a threat to the agricultural, horticultural, or livestock industry of the county in which the property is situated, the department or county agency may enter [such] the property for the purpose of abating, destroying, removing, or controlling [such] the infestation; provided that the [county agency or] department or county agency shall give written notice of [such] its finding to the owner or occupant of [such] the property at least five days prior to entry. If [such] entry is refused, the [member] representative may make a complaint to the district court in the circuit in which [such] the land is located. The district court may thereupon issue a warrant, directed to any police officer of the circuit, commanding the police officer to take sufficient aid[,] and, [being] accompanied by a [member] representative of the department or county agency, as the case may be, [between the hours of sunrise and sunset to] during regular working hours and at other reasonable times, examine, abate, destroy, remove, or control[, under the directions of the member,] the infestation of noxious weeds[.] as directed by the representative.”

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 93

S.B. NO. 997

A Bill for an Act Relating to the Sale of Fishing Licenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 187A-10, Hawaii Revised Statutes, is amended to read as follows:

**“§187A-10 Agents to sell licenses.** (a) The department may designate agents to sell fishing licenses in accordance with this section. [Each agent shall be bonded by the department in a sum which shall cover the value of the licenses delivered to the agent. The bond shall secure the faithful accounting and payment to the department of the funds collected from the sale of the licenses.] Agents shall report all sales of licenses to the department monthly and not later than the fifteenth day of the month following the month covered by the report. Wilful failure to make a report shall be cause for cancellation of the agency and upon the cancellation a full accounting and settlement for all licenses shall be made forthwith. All fees collected shall be remitted to the department at the same time as the report of license sales is made. If the agents prepay for the licenses, then the fees collected shall be retained by agents, rather than remitted to the department.

(b) Agents shall receive [five] ten per cent of the value of licenses sold [and the sum shall be deducted from the total value of fees collected before remittance is made]. All reports on license sales shall be made on forms supplied by the department. The duly authorized agents of the department

may administer oaths as required in license applications. Chapter 40 shall not apply to the agents.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 94

S.B. NO. 999

A Bill for an Act Relating to Reemployment and Recall Lists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-25, Hawaii Revised Statutes, is amended to read as follows:

“**§76-25 Reemployment and recall lists.** (a) Whenever any employee who has been performing the employee’s duties in a satisfactory manner as shown by the records of the department of personnel services or the agency in which the employee has been employed, is demoted because of lack of work or lack of funds, has voluntarily accepted a position in a lower class, has resigned in good standing with the consent of the appointing authority, is retired for ordinary or accidental disability, is terminated because of non-work related injury and there is no other available work which the employee is capable of performing, or whenever the employee’s position has been reallocated to a lower class, the employee shall have the right to have the employee’s name placed on the appropriate reemployment list for a period of three years thereafter; provided that the employee files a written application for reemployment within three years after the employee’s separation, demotion, or reallocation; provided further that the period which an employee spends in a hospital, settlement, or place within the State undergoing treatment for Hansen’s disease or tuberculosis, shall be excluded in computing the three year period. A person on a reemployment list shall be deemed eligible for certification to positions in the class in which the person last held a permanent status prior to separation, demotion, or reallocation. A person may also be deemed eligible for certification to positions in a class, in the same or lower grade, which are related to the class in which the person last held a permanent appointment.

(b) Whenever a regular employee has been laid off because the employee’s position has been abolished due to lack of work or funds or because the employee was displaced by another employee because of reduction-in-force, the employee shall have the right to have the employee’s name placed on appropriate recall lists and be deemed eligible for certification to positions in the class in which the employee last held permanent status or in a related class in the same or lower grade for which the employee meets the qualification requirements.

(c) The director of personnel services may remove the name of a person on any reemployment or recall list or refuse to certify the person’s name on any list of eligibles, if the director finds, after giving the person notice and an opportunity to be heard, that the person is no longer able to perform the necessary duties satisfactorily.”

SECTION 2. New statutory material is underscored.

**ACT 95**

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

**ACT 95**

S.B. NO. 1002

A Bill for an Act Relating to Real Estate.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 467, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§467- Prerequisites for license renewal.** Prior to the license renewal of a real estate broker or real estate salesman, the licensee shall provide the commission with proof of having attended ten hours of continuing education or its equivalent as determined by the commission during the two year period preceding the application for renewal. Failure to satisfy the continuing education requirement by the license expiration date shall result in the license being automatically placed on an “inactive” status. To reactivate a license which has been placed on an “inactive” status the licensee shall submit to the commission proof of having satisfied the continuing education requirement of this section.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval and shall be applied to license renewals for the biennium beginning January 1, 1991 and shall be repealed as of July 1, 1995.

(Approved May 30, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 96**

S.B. NO. 1079

A Bill for an Act Relating to Industrial Loan Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 408-14, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

**“(c) [No] Every industrial loan company that issues investment or thrift certificates or debentures to the public shall [have outstanding at any time its certificates, debentures, or both registered under chapter 485 in an aggregate sum in excess of ten times the aggregate amount of its paid-up capital and surplus; provided the commissioner may limit the ratio of certificates, debentures, or both to capital and surplus which may be issued by any industrial loan company if the commissioner determines that the lower ratio is necessary in the public interest. In determining the ratio to be permitted, the commissioner shall consider all relevant circumstances, including, without limitation, the following factors:**

(1) The length of time the company has been in operation;

- (2) Ratio of losses to volume of loans made and contracts purchased;
- (3) The creation and maintenance of adequate reserve for losses;
- (4) Charge-off of uncollectable accounts;
- (5) The amount or growth of undivided profits, earned surplus, or both;
- (6) Diversification of character and source of loans made and contracts purchased;
- (7) Creation and maintenance of adequate internal controls; and
- (8) Sound and efficient management.]

maintain at least the minimum capital requirement set forth for banks in the regulations of the Federal Deposit Insurance Corporation in Part 325, Subchapter B, Chapter III, Volume 12 of the Code of Federal Regulations.

This capital requirement shall be the minimum acceptable level for industrial loan companies whose overall financial condition is fundamentally sound, which are well-managed and which have no material or significant financial weaknesses. Where the commissioner determines that the financial history or condition, including off-balance sheet risk, managerial resources or the future earnings prospects of the company are not adequate or the company has a significant volume of assets classified substandard, doubtful or loss or otherwise criticized, the commissioner may determine that the minimum adequate amount of total capital or primary capital for that company is greater than the minimum standards stated in this section.

If the commissioner determines that an industrial loan company is operating with less than the minimum capital requirement, the commissioner shall serve upon the industrial loan company a written notice of intent to issue an order requiring the company to restore its capital to the minimum capital requirement within a specified time period. The notice of intent shall include the current total capital ratio, the basis upon which said ratio was calculated, the proposed capital injection, the proposed date for achieving the minimum capital requirement and any other relevant information concerning the decision to issue an order requiring the company to restore its capital to the minimum requirement. When deemed appropriate, specific requirements of a proposed plan for meeting the minimum capital requirement may be included in the notice. The notice of intent may require the industrial loan company to submit to the commissioner for review and approval a plan describing the means and timing by which the company shall achieve the minimum capital requirement.

Within fourteen days of receipt of the notice of intent, the company may file with the commissioner a written response, explaining why the order should not be issued, seeking modification of its proposed terms, or other appropriate relief. The company's response shall include any information, mitigating circumstances, documentation or other relevant evidence which supports its position, and may include a plan for attaining the minimum capital requirement.

After considering the company's response, the commissioner shall serve upon the company a written determination addressing the company's response and setting forth the commissioner's specific findings and conclusions in support of any decision to issue or not to issue the order. The order may be issued as originally proposed or in modified form. The order may direct the company to (1) achieve the minimum capital requirement by a certain date; (2) submit for approval and adhere to a plan for achieving the minimum capital requirement; (3) take other action as is necessary to achieve the minimum capital requirement; or (4) a combination of the

## ACT 97

above actions. If an order is to be issued, it may be served upon the company along with such final determination.

Any industrial loan company, upon a change in circumstances, may request the commissioner to reconsider the terms of an order and may propose changes in the plan under which the company is operating to meet the minimum capital requirement. The order and plan continue in effect while the request is pending before the commissioner.

All papers filed with the commissioner must be postmarked or received by the commissioner within the prescribed time limit for filing.

Failure by an industrial loan company to file a written response within the specified time period to the commissioner's notice of intent to issue an order shall constitute a waiver of the opportunity to respond and shall constitute consent to the issuance of the order.

Any order of the commissioner shall be reviewable upon appeal to the circuit court of the first judicial circuit as provided in chapter 91."

SECTION 2. Section 408-14, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Upon any failure to maintain the [ratio] minimum capital required in subsection (c) [or] the industrial loan company shall take the actions in paragraphs (1) and (3) of this subsection, and upon any failure to maintain the reserve required in subsection (d), the industrial loan company shall[:] take the actions in paragraphs (1), (2) and (3) of this subsection:

- (1) Promptly take action to correct the deficiencies;
- (2) Cease making any loans or other advances or extensions of credit until the deficiencies are corrected; and
- (3) Notify the commissioner immediately, in case of any deficiency in the [ratio] minimum capital requirement, and within two working days in the case of any deficiency in the reserve requirement.

The commissioner, in writing, may direct specific directors and officers of any industrial loan company in violation of this section to take actions reasonably necessary to comply with this section."

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

**ACT 97**

S.B. NO. 1098

A Bill for an Act Relating to Unfair Insurance Practices and Frauds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431-647, Hawaii Revised Statutes, is amended to read as follows:

“§431-647 Penalty for violation of cease and desist orders. (a) Any person who violates a cease and desist order of the commissioner under section 431-646 may be subject at the discretion of the commissioner, after notice and hearing and upon order of the commissioner, to either or both of the following:

- (1) A monetary penalty of not more than \$10,000 for each and every act in violation of the cease and desist order; or
- (2) Suspension or revocation of the person's license.

(b) No order of the commissioner pursuant to this section or order of court to enforce it shall in any way relieve or absolve any person affected by the order from any other liability, penalty, or forfeiture required by law.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 98

S.B. NO. 1126

A Bill for an Act Relating to Marriage License.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 572-5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The department or its authorized agents shall furnish to each applicant for a marriage license information, to be provided by the department, relating to population stabilization, family planning, [and] birth control[.], fetal alcohol and drug syndromes, and acquired immune deficiency syndrome (AIDS), including the availability of anonymous testing for HIV infection at alternate test sites; provided that such information is available.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 99

S.B. NO. 1151

A Bill for an Act Relating to Hawaii Housing Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 359G-9.2, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) The restrictions prescribed in subsection (a) above may be waived if:

- (1) The purchaser wishes to transfer title to the dwelling and the property or lease by devise or through the laws of descent to a family member who would otherwise qualify under rules established by the authority; or

## ACT 100

- (2) The authority determines, in accordance with adopted rules, that the sale or transfer of a dwelling unit[, would be at a price and upon terms [as it shall set,] that preserves the intent of this section without the necessity of the State to repurchase the unit[; provided that the restrictions prescribed in subsection (a) above shall be reinstated after the transfer of title and shall be fully effective and applicable to the transferee].

(c) The restrictions prescribed in subsection (a) above shall be automatically extinguished and shall not attach in subsequent transfers of title when a mortgage holder or other party becomes the owner of a dwelling unit and the land or leasehold interest pursuant to a mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced. Any law to the contrary notwithstanding, a mortgagee under a mortgage covering a dwelling unit and land or leasehold interest encumbered by the first option to purchase in favor of the authority shall, prior to commencing mortgage foreclosure proceedings, notify the authority of (1) any default of the mortgagor under the mortgage within ninety days after the occurrence of the default, and (2) any intention of the mortgagee to foreclose the mortgage under chapter 667. The authority shall be a party to any foreclosure action, and shall be entitled to all proceeds remaining in excess of all customary and actual costs and expenses of transfer pursuant to default, including liens and encumbrances of record; provided that the person in default shall be entitled to an amount which shall not exceed the sum of amounts determined pursuant to subparagraphs [(a)(1)(B) and (C)] (B) and (C) of subsection (a)(1) above and the purchaser's equity in the property."

SECTION 2. Section 359G-9.3, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The restrictions prescribed in subsection (a) above shall be automatically extinguished and shall not attach in subsequent transfers of title as prescribed in section [359G-9.2(c.)] 359G-9.2(b) and (c)."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 100

S.B. NO. 1156

A Bill for an Act Relating to Legitimation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 338-1, Hawaii Revised Statutes, is amended by amending the definition of "legitimation" to read as follows:

"“Legitimation” is the process by which a child born out of wedlock assumes the legal status and the rights, privileges, duties, and obligations of a child who is born in wedlock. [Legitimation occurs:

- (1) When the natural parents marry each other;
- (2) When the unmarried natural father voluntarily acknowledges the unmarried natural father's child born out of wedlock through



- an affidavit of each parent where they identify the child as theirs and the other parent as the mother or father;
- (3) When the parent and child relationship is established under chapter 584; or
  - (4) When a child born out of wedlock is adopted.]”

SECTION 2. Section 338-21, Hawaii Revised Statutes, is amended to read as follows:<sup>1</sup>

“(a) All children born out of wedlock, irrespective of the marriage of either natural parent to another, become legitimate (1) on the marriage of the natural parent<sup>1</sup> with each other, (2) on the voluntary, written [acknowledgement] acknowledgements of paternity under oath signed by the natural father and the natural mother, or (3) on establishment of the parent and child relationship under chapter 584, and are entitled to the same rights as those born in wedlock and shall take the name so stipulated by their parents or, if the parents do not agree on the name, shall take the name specified by a court of competent jurisdiction to be the name that is in the best interests of the child. If legitimation is accomplished before the original certificate of birth is filed with the department of health, the original certificate of birth shall contain the name so stipulated. The child or children or the parents thereof may petition the department of health to issue a new original certificate of birth, and not a duplicate of the original certificate that has been amended, altered, or modified, in the new name of the legitimate child, and the department shall issue the new original certificate of birth upon being satisfied that the child or children has or have been legitimated. As used in this section “name” includes the first name, middle name, or last name.

(b) The evidence upon which the new original certificate is made, and the superseded original certificate shall be sealed and filed and may be opened only upon order of a court of record.

(c) [The legitimation of] If, after a child is legitimated pursuant to subsection (a)(2) or (a)(3) of this section [shall not preclude a subsequent legitimation.], the child’s natural parents marry each other and desire to change the child’s name, the child’s name may be changed and a new original certificate of birth prepared as if a legitimation pursuant to subsection (a)(1) had just occurred.

(d) Nothing in this section shall be construed to limit the power of the courts to order the department of health to prepare new certificates of birth under section 584-23.”

SECTION 3. Section 584-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) A man is presumed to be the natural father of a child if:
- (1) He and the child’s natural mother are or have been married to each other and the child is born during the marriage, or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court;
  - (2) Before the child’s birth, he and the child’s natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
    - (A) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage,

- or within three hundred days after its termination by death, annulment, declaration of invalidity, or divorce; or
- (B) If the attempted marriage is invalid without a court order, the child is born within three hundred days after the termination of cohabitation;
- (3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid;<sup>1</sup> and:
  - (A) He has acknowledged his paternity of the child in writing filed with the department of health;
  - (B) With his consent, he is named as the child's father on the child's birth certificate; or
  - (C) He is obligated to support the child under a written voluntary promise or by court order;
- (4) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child; or
- (5) He [acknowledges his paternity of the child in a writing filed with the department of health, which shall promptly inform the mother of the filing of the acknowledgement, and she does not dispute the acknowledgement within a reasonable time after being informed thereof, in a writing filed with the department of health. If another man is presumed under this section to be the child's father, acknowledgement may be effected only with the written consent of the presumed father or after the presumption has been rebutted. If the acknowledgement is filed and not disputed by the mother and if another man is not presumed under this section to be the child's father, the] files with the department of health:
  - (A) A voluntary, written acknowledgement of paternity of the child signed by him under oath; and
  - (B) A voluntary, written acknowledgement of paternity of the child signed by the natural mother under oath.

The department of health shall prepare a new certificate of birth for the child in accordance with section [584-23.] 338-21."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

Note

1. So in original.

A Bill for an Act Relating to Concessions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 102-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The bidding requirements of subsection (a) shall not apply to concessions or space on public property set aside for the following purposes:

- (1) For operation of ground transportation services at airports;
- (2) For lei vendors;
- (3) For airline and aircraft operations;
- (4) For [coin-operated] automatic teller machines and vending machines, except [coin-operated insurance vending machines; and] vending machines located at public schools operated by blind or visually handicapped persons in accordance with section 298-21.5;
- (5) For operation of concessions set aside without any charge;
- (6) For operation of concessions by handicapped persons, or blind persons; except concessions operated in the public schools by blind or visually handicapped persons in accordance with section 298-21.5;
- (7) For operation of concessions on permits revocable on notice of thirty days or less; provided that no such permits shall be issued unless the premises covered therein shall no longer be used for the existing purposes and that the permit is issued as a temporary use of the premises until the governmental agency proceeds to apply the premises for the new use thereof; and provided further that no permits shall be issued for more than one year.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 102

S.B. NO. 1277

A Bill for an Act Relating to Pest Control Operators.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 460J-19, Hawaii Revised Statutes, is amended to read as follows:

“[[[§460J-19]] [Wood-destroying pests or inspection required; field reports; inspection reports;] Termite control contracts; form and contents; filing and delivery; [statement of guarantee;] control service; control service contract. (a) This section shall apply only to [wood-destroying pests.] contracts for the control of termites.

(b) No licensee shall commence work on a contract[, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood-destroying pests] for the control of termites until an inspection has been made[. A] and a written inspection report and a written estimate [conforming to this section and on a form prescribed by the board shall be prepared and delivered to] have been approved by the person requesting the [inspection or the person's designated agent, before work is commenced.] work; provided that no written inspection report shall be required in the event that a live infestation exists. The following shall be [set forth] included in the written inspection report on a form prescribed by the board.<sup>1</sup>

## ACT 103

- (1) The date of the inspection and the name of the person making the inspection;
- (2) The name and address of the person or firm ordering the report;
- (3) The name and address of any person who is a party in interest to whom the licensee is to send certified copies of inspection reports and completion notices;
- (4) The address or location of the property;
- (5) A general description of the building or premises inspected[.]; and
- (6) The location of visible termite infestations apparent to the licensee.<sup>1</sup>

The licensee shall not be responsible for subsequent infestations unless their presence was visible at the time of the inspection. There shall be no guarantees or warranties on inspection reports. [Any contract entered into, shall state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect.]

(c) Control service is defined as the regular reinspection of a property after a report has been made in compliance with this section and such corrections as have been agreed upon have been completed. Under a control service agreement, a licensee shall refer to the original report and contract in such manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A licensee is not required to issue a report as outlined in paragraphs (1) to [(5)] (6) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall [state specifically] identify the particular [wood-destroying pests] types of termites and the portions of the buildings or structures covered by the contract.”

SECTION 2. New statutory material is underscored. Statutory material to be deleted is bracketed.

SECTION 3. This Act shall take effect on July 1, 1987.

(Approved May 30, 1987.)

### Note

1. So in original.

## ACT 103

S.B. NO. 1286

A Bill for an Act Relating to Banking.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 403-65, Hawaii Revised Statutes, is amended to read as follows:

“**§403-65 Directors meetings; examination reports.** The board of directors of every bank shall hold a regular meeting at least once every month. At every such meeting the president or cashier shall submit a detailed report showing every loan and investment which exceeds in amount one-half of one per cent of the capital and surplus of the bank or [\$100,000,] \$500,000, whichever is the lesser, made during the preceding month or since the last

report, also a separate report of all loans made to any officer, director, or employee (except such loans as are excluded from the requirements of approval by section 403-94), whether made direct or indirect or contingent, and the amount of security held therefor, if any, unless an advisory, discount, or executive committee, the majority of whom are not active officers of the bank, makes and files a written report stating that the committee has examined the reports and approved thereof, or stating its disapproval of any item appearing therein. The board of directors shall examine and pass upon such written report or the report of the advisory, discount, or executive committee and make the same a part of the record of their meeting by recording it in the minutes, and the record shall show their approval or disapproval."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

## ACT 104

S.B. NO. 1287

A Bill for an Act Relating to Banking.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 403-94, Hawaii Revised Statutes, is amended to read as follows:

**"§403-94 Loan to officers, directors, or employees; restrictions; liability of officers and directors.** Except as herein provided, no bank shall make any loan or loans to any<sup>1</sup> company, firm, copartnership, or association, excluding however corporations, in which any of the officers or directors of the bank may be interested, either directly or indirectly, except upon the written application of such person, firm, copartnership, or association, stating the line of credit applied for, terms and security, if any, offered therefor to the board of directors or to the advisory, discount, or executive committee of the board, and then only with the written approval of a majority of the board or a majority of the advisory, discount, or executive committee of the bank before the loan is made, and the approval of the loan as allowed by the board or the advisory, discount, or executive committee of the bank shall be made a part of the minutes of the next directors' meeting of the bank. Loans may be made to any officer, director, agent, or employee of any bank, without such application and approval, (1) in any amounts where the loans are secured by bonds of the State, bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, where the amount of the collateral is equal to at least one hundred five per cent of the amount of any such loan; and (2) in amounts, excluding loans so secured, not in excess of [\$5,000] \$20,000 in aggregate principal owing by any such individual at any one time. Any officer, director, agent, or employee of any bank who knowingly permits the funds of the bank to be loaned in a dishonest manner or contrary to this chapter shall be held responsible in the officer's, director's, agent's, or employee's individual capacity for all damages which the bank, its shareholders, depositors, creditors, or any persons shall have sustained in consequence thereof."

## ACT 105

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1987.)

### Note

1. So in original.

## ACT 105

S.B. NO. 1323

A Bill for an Act Relating to Limited-Equity Housing Cooperatives.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### “CHAPTER LIMITED-EQUITY HOUSING COOPERATIVES

§ -1 Definitions. As used in this chapter, unless otherwise indicated by the context:

- (1) “Corporate equity” means the excess of the current fair market value of the corporation’s assets, including its real property, over the sum of the current transfer values of all shares or membership interests, reduced by the principal balance of outstanding encumbrances upon the corporate real property as a whole.
- (2) “Limited-equity housing cooperative” means a stock cooperative corporation which is organized as a nonprofit corporation under sections 416-19 and 416-26 for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy; provided the corporation also:
  - (A) Is organized so that the consideration paid for an individual membership share by the first occupant following construction or acquisition by the corporation, including the principal amount of obligation incurred to finance the membership share, does not exceed seven per cent of the respective dwelling unit’s development cost, acquisition cost, or of the fair market value appraisal by the permanent lender, whichever is greater; and
  - (B) Holds title to real property as the beneficiary of a trust providing for distribution for public or charitable purposes upon termination of the trust; or
  - (C) Holds title to real property subject to conditions which will result in reversion to a public or charitable entity for affordable housing upon dissolution of the corporation; or

- (D) Holds a leasehold interest conditioned on the corporation's continued qualification under this chapter and providing for reversion to a public entity or charitable corporation for affordable housing.

**§ -2 Charter of incorporation.** (a) The charter of incorporation and bylaws shall require the purchase and sale of the stock of resident owners who cease to be residents, at not more than a transfer value determined as provided in the charter and bylaws, and which shall not exceed the aggregate of the following:

- (1) The consideration paid for the membership share by the first occupant of the unit involved, as shown on the books of the corporation.
- (2) Accumulated interest, or an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market-interest index. Any increment pursuant to this paragraph shall not exceed a ten per cent annual increase on the consideration paid for the membership or share by the first occupant of the unit involved.
- (3) The value, as determined by the board of directors of the corporation, of any improvements installed at the expense of the member with the prior approval of the board of directors.
- (4) No other charges, fees, premiums, taxes, or payments or exchanges of any kind may be imposed, assessed, or made a condition of any transfer.

(b) The charter of incorporation and bylaws shall require the board of directors or corporate members to sell the stock purchased as provided in subsection (a) to new resident shareholders at a price which does not exceed the transfer value paid for the unit. Upon termination or dissolution of the corporation, the then existing stockholders shall be paid an amount that does not exceed the transfer value of their share.

(c) Amendment of the charter of incorporation shall require the affirmative vote of at least two-thirds of the resident shareholders.

(d) The charter of incorporation and bylaws shall require:

- (1) The corporation issue only one class of stock;
- (2) One share shall be issued for each dwelling unit in the cooperative;
- (3) Voting rights shall be based upon one share, one vote; and
- (4) Each shareholder shall be a resident of the unit represented by the share held.

(e) The charter of incorporation and bylaws shall require a provision that there shall not be any social, political, racial, or religious discrimination nor any discrimination on the basis of age, sex, marital, or parental status, subject only to limitations under applicable federal, state, or county laws, rules, or regulations.

**§ -3 Contents of bylaws.** The bylaws shall provide at least the following:

- (1) The election of a board of directors, the number of persons constituting the board, and that the terms of at least one-third of the directors shall expire annually; the powers and duties of the board; the method of removal from office of directors; and whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them.

## ACT 105

- (2) Method of calling meetings of the shareholders; what percentage, if other than a majority of shareholders constitutes a quorum; and what percentage, consistent with this chapter, is necessary to adopt decisions binding on all shareholders.
- (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors.
- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.
- (5) Election of a treasurer who shall keep the financial records and books of accounts.
- (6) Operation of the property; determination and collection of monthly carrying charge for each unit.
- (7) Designation and removal of personnel necessary for maintenance and repair.
- (8) Method of adopting and amending administrative rules and regulations governing the details of the operation and use of corporate property.
- (9) Two-thirds of the shareholders may at any time modify or amend the bylaws, but each one of the particulars set forth in this section shall always be embodied in the bylaws.
- (10) All members of the board of directors except for initial provisional directors shall be shareholders. There shall not be more than one representative on the board of directors from any one dwelling unit.
- (11) A director shall not cast any proxy vote at any board meeting, nor shall a director vote at any board meeting on any issue in which the director has a conflict of interest.
- (12) No employees of the cooperative shall serve on the board of directors.
- (13) The board of directors shall meet at least once a year.
- (14) Notices of shareholder's meetings, whether annual or special, shall be delivered to each shareholder at least fourteen days prior to such meeting, and shall contain at least: the date and time of such meeting; the place of such meeting; and the items on the agenda of such meetings.
- (15) All board of directors' meetings shall be conducted in accordance with Roberts Rules of Order, or other accepted rules for the conduct of meetings.
- (16) The shareholders may require, by vote at the annual meeting, a yearly audit of the corporate books by a certified public accountant.
- (17) Notice of the annual board meeting shall be given in a reasonable manner at least fourteen days, if practicable, prior to such meeting.
- (18) That the minutes of meetings of the board of directors, shareholders, and the corporation's financial statements shall be available for examination by shareholders at convenient hours at a place designated by the board.
- (19) A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate any person as proxy, and may be limited as the shareholder desires and indicates; provided that no proxy shall be irrevocable.

§ -4 Use of corporate equity. (a) The corporate equity shall not be used for distribution to members, but only for the following purposes, and



only to the extent authorized by the board, subject to the provisions and limitations of the charter of incorporation and bylaws:

- (1) For the benefit of the corporation or the improvement of the real property, including its use as collateral for loans authorized under section 403-98.
- (2) For expansion of the corporate equity by acquisition of additional interest in real property for purposes consistent with its charter.
- (3) For public benefit or charitable purposes.

(b) Upon sale of the property, dissolution of the corporation, or occurrence of a condition requiring termination of the trust or reversion of title to the real property, the corporate equity shall be required by the charter, bylaws, or trust or title conditions to be paid out, or title to the property transferred, subject to outstanding encumbrances and liens, and the transfer value of membership shares, for use for a public or charitable purposes.

(c) The membership shares and cooperative fees are interests in real property for purposes of:

- (1) Cooperative housing corporations under section 216 of the federal Internal Revenue Code of 1954, as amended;
- (2) Exemption from state general excise tax under section 237-24(17); and
- (3) Exemption from real property tax under sections 246-26 and 246-27(3).

**§ -5 Registration and administration requirements.** (a) Limited-equity housing cooperatives under this chapter shall be subject to regulation by the real estate commission.

(b) Any law to the contrary notwithstanding, limited-equity housing cooperatives under this chapter shall be subject to the same requirements, to the extent practicable, which now apply to horizontal property regimes under part III of chapter 514A with regard to notice of intent to sell, questionnaires, fees, inspections, public reports, penalties, limitations of actions, and the powers of the real estate commission to conduct investigations, issue cease and desist orders, and obtain injunctions.

(c) The real estate commission may adopt rules under chapter 91 to implement this chapter, including rules to limit or waive the applicability of certain requirements in subsection (b) which could not fairly or reasonably be applied to limited-equity housing cooperatives already in existence on the effective date of this chapter.

**§ -6 Arbitration of disputes.** (a) At the request of any party, any dispute concerning or involving one or more stockholders and a limited-equity housing corporation, its board of directors, managing agent, or one or more other stockholders relating to the interpretation, application or enforcement of chapter or the corporation's charter of incorporation, bylaws, or administrative rules adopted in accordance with its bylaws shall be submitted to arbitration. The arbitration shall be conducted, unless otherwise agreed by the parties, in accordance with the rules adopted by the real estate commission and the provisions of chapter 658; provided that the Horizontal Property Regime Rules on Arbitration of Disputes of the American Arbitration Association shall be used until the commission adopts its rules; provided further that where any arbitration rule conflicts with chapter 658, chapter 658 shall prevail; provided further that notwithstanding any rule to the contrary, the arbitrator shall conduct the proceedings in a manner which affords substantial justice to all parties; provided further that the

## ACT 106

proceedings shall be concluded ninety days after the commencement of the arbitration unless extended by mutual consent of the parties involved and their counsel. The arbitrator shall be bound by rules of substantive law and shall not be bound by rules of evidence, whether or not set out by statute, except for provisions relating to privileged communications. The arbitrator shall permit discovery as provided for in the Hawaii rules of civil procedure; provided that the arbitrator may restrict the scope of such discovery for good cause to avoid excessive delay and costs to the parties or the arbitrator may refer any matter involving discovery to the circuit court for disposition in accordance with the Hawaii rules of civil procedure then in effect.

(b) Nothing in subsection (a) shall be interpreted to mandate the arbitration of any dispute involving:

- (1) The real estate commission;
- (2) The mortgagee of a mortgage of record;
- (3) The developer, general contractor, subcontractors, or design professionals for the project; provided that when any person exempted by this paragraph is also a stockholder, a director, or managing agent, such person shall, in those capacities, be subject to the provisions of subsection (a);
- (4) Actions seeking equitable relief involving threatened property damage or the health or safety of stockholders or any other person;
- (5) Actions to collect assessments which are liens or subject to foreclosure;
- (6) Personal injury claims; or
- (7) Actions for amounts in excess of \$2,500 against a limited-equity housing corporation, a board of directors, or one or more directors, officers, agents, employees, or other persons, if insurance coverage under a policy or policies procured by the limited-equity housing corporation or its board of directors would be unavailable because action by arbitration was pursued."

SECTION 2. Chapter 421G, Hawaii Revised Statutes, is repealed.

SECTION 3. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of commerce and consumer affairs relating to the functions transferred to the real estate commission shall be transferred with the functions to which they relate.

SECTION 4. This Act shall take effect on July 1, 1987.

(Approved May 30, 1987.)

## ACT 106

S.B. NO. 1342

A Bill for an Act Relating to Travel Agencies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 468K-5, Hawaii Revised Statutes, is amended to read as follows:

**"§468K-5 Statute of limitations; recovery from fund.** (a) No action for a judgment or proceeding for a consent judgment under section 480-22 which may subsequently result in an order for collection from the travel agency

recovery fund shall be commenced later than six years from the accrual of the cause of action. [When any aggrieved person commences action for a judgment which may result in collection from the travel agency recovery fund, the aggrieved person shall notify the trustees in writing to this effect at the time of the commencement of such action. The trustees shall have the right to intervene in and defend any such action.]

(b) When any person aggrieved commences action for a judgment which may result in collection from the travel agency recovery fund, the person aggrieved shall notify the trustees in writing to this effect at the time of the commencement of the action. The trustees shall have the right to intervene in and defend any action.

[(b)] (c) When any [aggrieved] person aggrieved recovers a valid judgment in any circuit court or district court of the county where the violation occurred against any travel agency or sales representative for [such] any act, representation, transaction, or conduct which is in violation of this chapter or its adopted rules, or which constitutes an unfair or deceptive act or practice in violation of section 480-2, which occurred after January 1, 1981, the [aggrieved] person aggrieved may, upon the termination of all proceedings, including reviews and appeals in connection with the judgment, file a verified claim in the court in which the judgment was entered and, upon ten days' written notice to the trustees, may apply to the court for an order directing payment out of the travel agency recovery fund, of the amount unpaid upon the judgment, subject to the limitations stated in this section.

(d) When the office of consumer protection obtains a consent judgment pursuant to section 480-22, in any circuit court where the violation occurred against any travel agency or sales representative for any act, representation, transaction, or conduct which is in violation of this chapter or its adopted rules, or which constitutes an unfair or deceptive act or practice in violation of section 480-2, which occurred after January 1, 1981, the office of consumer protection upon the finality of the consent judgment under section 480-22, may file a verified claim in the court in which the consent judgment was entered and, upon ten days' written notice to the trustees, may apply to the court for an order directing payment out of the travel agency recovery fund, of the amount unpaid upon the consent judgment, subject to the limitations stated in this section. The trustees shall have the right to intervene in and defend any application to the court for an order directing payment out of the travel agency recovery fund.

[(c)] (e) The court shall proceed upon [such] the application for an order directing payment out of the travel agency recovery fund in a summary manner, and, upon the hearing of the application, the [aggrieved] person aggrieved shall be required to show:

- (1) He or she is not a spouse of the judgment debtor, or the personal representative of [such] the judgment debtor's spouse;
- (2) He or she has complied with all the requirements of this section;
- (3) He or she has obtained a judgment as set out in [subsection (b)] subsections (c), (d), or (g), stating the amount of the judgment and the amount owing on the judgment at the date of the application;
- (4) He or she has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment; and
- (5) That by [such] the search required by this section, he or she has discovered no personal or real property or other assets liable to

be sold or applied, or that he or she has discovered certain of them, describing them, owned by the judgment debtor and liable to be so applied, and that he or she has taken all necessary action and proceedings for the realization thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized.

[(d)] (f) The court shall make an order directed to the trustees requiring payment from the travel agency recovery fund of whatever sum it shall find to be payable upon the claim, pursuant to the provisions of and in accordance with the limitations contained in this section, if the court is satisfied, upon the hearing of the truth of all matters required to be shown by the [aggrieved] person aggrieved by subsection [(c) and] (e), that the [aggrieved] person aggrieved has fully pursued and exhausted all remedies available to the [aggrieved] person aggrieved for recovering the amount awarded by the judgment of the court.

[(e)] (g) For purposes of this chapter, an order for restitution obtained by the office of consumer protection on behalf of a person aggrieved against a registered travel agency or registered sales representative shall be the judgment obtained by the person aggrieved against the registered travel agency or registered sales representative. For purposes of this chapter, any written notification to the trustees as required by subsection [(a)] (b) by the office of consumer protection or any [action] acts to recover restitution on behalf of the person aggrieved by the office of consumer protection shall be the [actions] acts of the person aggrieved.

[(f)] (h) Subject to the limitations and requirements of this chapter, the office of consumer protection may apply to the court for an order directing payment out of the travel agency recovery fund on behalf of a person aggrieved; provided that the office of consumer protection obtains a court order directing the payment of restitution to the person aggrieved. The office of consumer protection shall not receive costs or attorneys' fees from the travel agency recovery fund.

(i) Upon the filing of an order for payment from the travel agency recovery fund to the office of consumer protection, or to any person aggrieved, which is based upon a consent judgment obtained by the office of consumer protection pursuant to section 480-22, the trustees may defer payment from the fund for six months, at the end of which period the trustees may discharge the trustees' obligations under the order and any other order for payment from the fund obtained by any person aggrieved prior to and at any time during the six-month period, by disbursing the money from the fund, up to the maximum allowed under this chapter, to all of the persons aggrieved, including those persons aggrieved in whose behalf the office of consumer protection obtained its order, on a pro rata basis; provided that, prior to the disbursement of the money, the trustees file an affidavit with the court stating how the money is to be disbursed. The trustees may apply to the court for an extension of the six-month period upon good cause, but in no case shall payment to the office of consumer protection or any person aggrieved be deferred for more than one year except as provided in subsection (k).

[(g)] (i) Should the trustees pay from the travel agency recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a registered travel agency or sales representative, registration shall be automatically terminated upon the issuance of a court order authorizing payment from the travel agency recovery fund. [No such] The travel agency or sales representative shall not be eligible to reregister to do business until

the fund is repaid in full, plus interest at the rate of ten per cent a year, the amount paid from the travel agency recovery fund on the account of the travel agency or sales representative. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection.

[(h)] (k) If, at any time, the money deposited in the travel agency recovery fund is insufficient to satisfy any duly authorized claim or portion thereof, the trustees shall, when sufficient money has been deposited in the travel agency recovery fund, satisfy [such] the unpaid claims or portions thereof, in the order that [such] the claims or portions thereof were originally filed[.] or in accordance with subsection (i).”

SECTION 2. Chapter 468K, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§468K- **Registration renewal.** Every travel agency and sales representative registered under this chapter shall register with the director and pay a renewal fee, as provided in rules adopted by the director in accordance with chapter 91, on or before December 31 of each odd-numbered year. Failure to pay the renewal fee as required by this section shall constitute a termination of registration as of the date the renewal fee is due. Any registration terminated under this section may be restored within one year after the date of termination upon the filing of an application and payment of a restoration fee as provided in rules adopted by the director in accordance with chapter 91.”

SECTION 3. Chapter 468K, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§468K- **Powers and duties of the director.** The director shall have the following powers and duties:

- (1) Adopt, amend, and repeal rules in accordance with chapter 91 to carry out the purposes of this chapter;
- (2) Issue, renew, terminate, and revoke registrations;
- (3) Establish fees; and
- (4) Do all things necessary to carry out the functions, powers, and duties set forth in this chapter.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

#### Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.

## ACT 107

S.B. NO. 1372

A Bill for an Act Relating to Labor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and intent.** The current state unemployment compensation law calls for an automatic increase to the maximum rate for unemployment insurance contribution for the remainder of the year should

## ACT 107

an employer fail to meet a payment deadline. This legislation proposes to amend current law to give the director of the department of labor and industrial relations the discretion to waive the penalty provision under certain circumstances rather than automatically impose the increase to the maximum allowable rate.

It should not be ignored that the existing fund for unemployment insurance is about \$175,000,000, a figure well in excess of the federally suggested adequate reserve of about \$137,000,000.

SECTION 2. Section 383-66, Hawaii Revised Statutes, is amended to read as follows:

**“§383-66 Contribution rates, how determined.** The department [shall], for the nine-month period April 1, 1941, to December 31, 1941, and for each calendar year thereafter, except as otherwise provided in this part, shall classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts with a view to fixing such contribution rates as will reflect such experience. The department shall determine the contribution rate of each employer in accordance with the following requirements:

- (1) The standard rate of contributions payable by each employer for any calendar year through 1984 shall be three per cent. For the calendar year 1985 and thereafter the standard rate of contributions payable by each employer shall be five and four-tenths per cent.
- (2) No employer's rate for the calendar year 1942 and for any calendar year thereafter shall be other than the maximum rate unless and until the employer's account has been chargeable with benefits throughout the thirty-six consecutive calendar month period ending on December 31 of the preceding calendar year, except that, for the calendar year 1956 and for each calendar year thereafter, an employer who has not been subject to the law for a sufficient period to meet this requirement may qualify for a rate other than the maximum rate if the employer's account has been chargeable throughout a lesser period but in no event less than the twelve consecutive calendar month period ending on December 31 of the preceding calendar year. For the calendar year 1985 and for each calendar year thereafter, the contribution rate for a new or newly covered employer shall be the sum of the employer's basic contribution rate of three and six-tenths per cent and the fund solvency contribution rate determined for such year pursuant to section 383-68(c)(2), until the employer's account has been chargeable with benefits throughout the twelve consecutive calendar month period ending on December 31 of the preceding calendar year; except that no employer's contribution rate shall be greater than five and four-tenths per cent and no employer with a negative reserve ratio shall have a contribution rate less than such employer's basic contribution rate.
- (3) No employer's rate for the calendar year 1965 and for any calendar year thereafter, or remaining calendar quarter thereof, as the case may be, through December 31, 1976, shall be less than the standard rate unless the total assets of the fund as of the end of the previous calendar year, or calendar quarter, were at least \$15,000,000; provided that each employer's rate for any calendar year or any portion thereof, as determined by other

applicable provisions of this part shall be increased by one-half per cent, if the total assets of the fund as of the end of the previous calendar year or calendar quarter were at least \$15,000,000 but less than \$20,000,000, but in no event shall an employer's rate exceed the standard rate. Any amount credited to this State under section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund, shall be excluded from the fund for the purposes of this paragraph. Any advance that may be made to this State under section 1201 of the Social Security Act, whether or not withdrawn from this trust fund, shall be excluded from the fund for the purposes of this paragraph. No employer's rate shall be reduced in any amount which is not allowable as an additional credit, against the tax levied by the federal Unemployment Tax Act pursuant to section 3302(b) of the federal Internal Revenue Code or pursuant to any other federal statute, successor to section 3302(b), which provides for the additional credit now provided for in section 3302(b).

- (4) If, when any such classification of employers is to be made (which may be after the commencement of the period for which the classification is to be made), the department finds that any employer has failed to file any report required in connection therewith or has filed a report which the department finds incorrect or insufficient, the department shall notify the employer thereof by [registered] mail addressed to the employer's last known address. Unless the employer files the report or a corrected or sufficient report, as the case may be, within fifteen days after the mailing of the notice, the maximum rate of contributions shall be payable by such employer for the period for which the contribution rate is to be fixed. Effective January 1, 1987, the director, for excusable failure, may redetermine the assignment of the maximum contribution rate in accordance with this section, provided the employer files all reports as required by the department and submits a written request for redetermination before December 31 of the year for which the contribution rate is to be fixed.
- (5) For the purpose of sections 383-63 to 383-69, if on or after January 1, 1940, any employing unit in any manner succeeds to or acquires the organization, trade, or business, or substantially all the assets thereof (whether or not the successor or acquiring unit was an "employing unit", as that term is defined in section 383-1 prior to the acquisition), of another which at the time of such acquisition was an employer subject to this chapter, and such predecessor employer has executed and filed with the department on a form approved by the department a waiver relinquishing all rights to the predecessor employer's prior experience record with respect to the predecessor employer's separate account, actual contribution payment, and benefit chargeability experience, annual payrolls and other data for the purpose of obtaining a reduced rate, and requesting the department to permit such experience record to inure to the benefit of the successor employing unit upon request of the successor employing unit, the experience record for rate computation purposes of

the predecessor shall thereupon be deemed the experience record of the successor and the experience record shall be transferred by the department to the successor employing unit and shall become the separate account of the employing unit as of the date of the acquisition and benefits thereafter chargeable to the employer on account of employment prior to the date of the acquisition shall be charged to such separate account. The successor employing unit, unless already an employer subject to this chapter, shall be subject from the date of acquisition to the rate of contribution of the predecessor or of two or more predecessors if they have the same contribution rate, provided the waiver or waivers required herein are filed with the department before sixty days after the date of acquisition. In case there are two or more predecessors having different contribution rates, the successor shall be subject to the rate prescribed for new or newly covered employers under paragraph (2) until the next determination of rates under sections 383-63 to 383-69, at which time the experience records of the predecessors and successor shall be combined and shall be deemed to be the experience record of a single employing unit and the successor's rate shall thereupon be determined upon the basis of such combined experience. If the successor at the time of the transfer is an employer subject to this chapter, the rate of contribution to which the successor is then subject shall remain the same until the next determination of rates under sections 383-63 to 383-69, at which time the experience records of the predecessor and successor shall be combined and shall be deemed to be the experience record of a single employing unit and the successor's rate shall thereupon be determined upon the basis of such combined experience. For the purpose of determination of rates under sections 383-63 to 383-69 of all successor employing units, waivers as required herein, if not previously filed as hereinabove provided, shall be filed with the department not later than March 1 of the year for which the rate is determined; provided that no such waiver shall be accepted by the department for filing unless the employing unit executing the waiver has filed all reports and paid all contributions required of it by this chapter.

- (6) The department may prescribe rules for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and, in accordance with such rules and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, shall maintain such joint account as if it constituted a single employer's account. The rules shall be consistent with the federal requirements for additional credit allowance in section 3303 of the federal Internal Revenue Code and consistent with this chapter.
- (7) Whenever there is an amendment to this chapter which, if immediately effective, would change an employer's rate of contributions, the rate of the employer shall be changed in accordance with the amendment and the new rate shall apply for the remainder of the calendar year beginning with the calendar quarter immediately following the effective date of the amendment providing for such change unless otherwise provided by the amendment.



- (8) For the purposes of this section "contribution rate" shall mean the basic contribution rate as defined in section 383-68 when applied to calendar year 1978 or any calendar year thereafter."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

## ACT 108

S.B. NO. 1458

A Bill for an Act Relating to Investigation of Elderly Abuse or Neglect.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 349C-3, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§349C-3]]~~ **Action on reporting.** The department of social services and housing, upon receiving an oral report under section 349C-2, [shall,] where the department deems it appropriate, shall take action towards preventing further abuse or neglect. Any employee of the department engaged in an investigation under this section shall be authorized to visit and communicate with the elderly person who is the subject of the report. Any such employee, who is accompanied by a police officer may, with or without a warrant, on reasonable suspicion of abuse or neglect of the elderly person, or on reasonable suspicion of obstruction or interference with the determination of the elderly person's welfare, enter upon the premises after entry is gained by a police officer where the elderly person may be found for the purpose of ascertaining the elderly person's welfare. Any person intentionally or knowingly obstructing or interfering with the department's access to or communication with the elderly person shall be guilty of a misdemeanor. If the elderly person who is or has been the subject of elderly abuse or neglect has suffered injury or harm so serious that criminal prosecution of the person who committed the elderly abuse or neglect is warranted, the department shall report its findings to the appropriate police department or prosecuting attorney.

The department of social services and housing shall maintain a central registry of reported cases."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

## ACT 109

S.B. NO. 1643

A Bill for an Act Relating to Zoning.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Legislature finds that the counties need greater flexibility in the enforcement of their respective zoning ordinances. Often,

## ACT 109

violations of such ordinances are technical matters for which the initiation of criminal prosecution, with the concomitant stigma and police record, is inappropriate. On the other hand, the invocation of circuit court jurisdiction for injunctive relief in such matters is often time-consuming and burdensome to the court. Use of civil fines has been proven an effective alternative for code enforcement by the board of land and natural resources and state department of health, and this option should be available to the counties.

SECTION 2. Section 46-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This section and any ordinances or rules and regulations adopted in accordance with it, shall apply<sup>1</sup> to those lands not contained within the forest reserve boundaries as established on January 31, 1957, or as subsequently amended.

Zoning in all counties shall be accomplished within the framework of a long range, comprehensive general plan prepared or being prepared to guide the overall future development of the county. Zoning shall be one of the tools available to the county to put the general plan into effect in an orderly manner. Zoning in the counties of Hawaii, Maui, and Kauai means the establishment of districts of such number, shape, and area, and the adoption of regulations for each district as shall be deemed best suited to carry out the purposes of this section. In establishing or regulating the districts, full consideration shall be given to all available data as to soil classification and physical use capabilities of the land so as to allow and encourage the most beneficial use of the land consonant with good zoning practices. The zoning power granted herein shall be exercised by ordinance which may relate to:

- (1) The areas within which agriculture, forestry, industry, trade, and business may be conducted.
- (2) The areas in which residential uses may be regulated or prohibited.
- (3) The areas bordering natural watercourses, channels, and streams, in which trades or industries, filling or dumping, erection of structures, and the location of buildings may be prohibited or restricted.
- (4) The areas in which particular uses may be subjected to special restrictions.
- (5) The location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered.
- (6) The location, height, bulk, number of stories, and size of buildings and other structures.
- (7) The location of roads, schools, and recreation areas.
- (8) Building setback lines and future street lines.
- (9) The density and distribution of population.
- (10) The percentage of lot which may be occupied, size of yards, courts, and other open spaces.
- (11) Minimum and maximum lot sizes.
- (12) Other such regulations as may be deemed by the boards or city council as necessary and proper to permit and encourage orderly development of land resources within their jurisdictions.

The council of any county shall prescribe such rules and regulations and administrative procedures and provide such personnel as it may deem necessary for the enforcement of this section and any ordinance enacted in

accordance therewith. The ordinances may be enforced by appropriate fines and penalties, civil or criminal, or by court order at the suit of the county or the owner or owners of real estate directly affected by the ordinances.

Any civil fine or penalty provided by ordinance under this section may be imposed by the district court, or by the zoning agency after an opportunity for a hearing, pursuant to chapter 91. Such a proceeding shall not be a prerequisite for any injunctive relief ordered by the circuit court.

Nothing in this section shall invalidate any zoning ordinances or regulation adopted by any county or other agency of government pursuant to the statutes in effect prior to July 1, 1957.

The powers granted herein shall be liberally construed in favor of the county exercising them, and in such a manner as to promote the orderly development of each county or city and county in accord with a long range, comprehensive, general plan, and to insure the greatest benefit for the State as a whole. This section shall not be construed to limit or appeal any powers now possessed by any county to achieve the ends through zoning and building regulations, except insofar as forest and water reserve zones are concerned and as provided in subsections (c) and (d).

Neither this section nor any ordinance enacted under this section shall prohibit the continuance of the lawful use of any building or premises for any trade, industry, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; provided that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single family or duplex) or agricultural uses. Nothing in this section shall affect or impair the powers and duties of the director of transportation as set forth in chapter 262."

SECTION 3. The substantive provisions of this Act shall amend any other conflicting Act enacted by the Regular Session of 1987.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

**Note**

1. Prior to amendment, "only" appeared here.

**ACT 110**

S.B. NO. 1708

A Bill for an Act Relating to Loans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 155-14, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

"(a) There is created a special fund to be known as the ["agricultural loan revolving fund",] agriculture loan revolving fund, from which moneys shall be loaned by the department of agriculture under this chapter. The

## ACT 111

department, by its board of agriculture, may transfer funds from the agriculture loan revolving fund to the aquaculture loan revolving fund from which moneys shall be loaned by the department pursuant to chapter 219; provided that twenty days prior to the convening of each regular session of the legislature, the department shall report to the legislature all transfers that were made from the agriculture loan revolving fund to the aquaculture loan revolving fund during the preceding calendar year and the balance of each loan fund as of December 31 of each year.

(b) All interest and fees collected by the department shall be deposited in the agricultural loan reserve fund to the extent needed to carry on the operations of the department including payments for consultative services that would strengthen the agricultural loan program; any moneys surplus to these needs shall be transferred to the [agricultural] agriculture loan revolving fund at the discretion of the department. All payments received on account of principal shall be credited to the [agricultural] agriculture loan revolving fund.

(c) A proper reserve shall be maintained in the [agricultural] agriculture loan revolving fund to guarantee payment of loans under section 155-5.”

SECTION 2. Section 219-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established a special fund to be known as the aquaculture loan revolving fund from which moneys shall be loaned by the department of agriculture under this chapter. The department, by its board of agriculture, may transfer funds from the aquaculture loan revolving fund to the agriculture loan revolving fund from which moneys shall be loaned by the department pursuant to chapter 155; provided that twenty days prior to the convening of each regular session of the legislature, the department shall report to the legislature all transfers that were made from the aquaculture loan revolving fund to the agriculture loan revolving fund during the preceding calendar year and the balance of the aquaculture loan revolving fund as of December 31 of each year.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1987.

(Approved May 31, 1987.)

## ACT 111

S.B. NO. 1711

A Bill for an Act Relating to Agricultural Parks.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 166-4, Hawaii Revised Statutes, is amended to read as follows:

“§~~166-4~~ **Park development.** Except as herein provided, the department may develop, on behalf of the State or in partnership with a federal agency, a county, or a private party, agricultural parks which, at the option of the board, shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to [zoning, subdivision, construction, or building standards, provided that:

- (1) The agricultural park is situated within a state land use agricultural district;
- (2) The agricultural park does not contravene any safety standard or tariff approved by the public utilities commission for public utilities;
- (3) The department shall have first presented the plans and specifications for the agricultural park to the legislative body of the county where the agricultural park is proposed, which shall have the right to approve or disapprove the agricultural park within forty-five days after presentment. If no action is taken by the legislative body involved within forty-five days after presentment, the agricultural park shall be deemed approved;
- (4) The final plans and specifications for the agricultural park approved by the legislative body of the county involved shall constitute the zoning, building, construction, and subdivision standards for the agricultural park. No action shall be prosecuted or maintained against any county, or its officials or employees, on account of actions taken by them in reviewing, approving, or disapproving such plans and specifications. For purposes of sections 501-85 and 502-17, the chairperson of the board of agriculture or the responsible county official may certify maps and plans of lands connected with the agricultural park as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and the registrar;] planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of buildings thereon; provided that:
  - (1) The board finds the agricultural park is consistent with the purpose and intent of this chapter, and meets minimum requirements of health and safety;
  - (2) The development of the proposed agricultural park does not contravene any safety standards or tariffs approved by the public utilities commission for public utilities;
  - (3) The legislative body of the county in which the agricultural park is to be situated shall have approved the agricultural park.
    - (A) The legislative body shall approve or disapprove the agricultural park within forty-five days after the department has submitted the preliminary plans and specifications for the agricultural park to the legislative body. If after the forty-fifth day an agricultural park is not disapproved, it shall be deemed approved by the legislative body.
    - (B) No action shall be prosecuted or maintained against any county, its officials, or employees, on account of actions taken by them in reviewing, approving, or disapproving the plans and specifications.
    - (C) The final plans and specifications for the agricultural park shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and specifications for the project shall constitute the planning, zoning, building, construction, and subdivision standards for that agricultural park. For purposes of sections 501-85 and 502-17, the chairperson of the board of agriculture or the responsible county official may certify

ACT 112

maps and plans of lands connected with the agricultural park as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and registrar; and

- [(5)] (4) The State shall assume the responsibility of maintaining all roads within the agricultural park, using the proceeds of the agricultural park special fund established under section 166-10, if the roads are developed exempt from applicable county ordinances, charter provisions, and rules regarding roads.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

ACT 112

S.B. NO. 1722

A Bill for an Act Relating to Recovery of Money Owed to the State.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 231-52, Hawaii Revised Statutes, is amended by amending the definition of “debt” to read as follows:

““Debt” includes:] either:

- (1) Any delinquency in periodic court-ordered payments for child support in an amount exceeding the sum of payments which would become due over a one-month period; or
- (2) Any liquidated sum exceeding \$25 which is due and owing any claimant agency, regardless of whether there is an outstanding judgment for that sum, and whether the sum has accrued through contract, subrogation, tort, operation of law, or judicial or administrative judgment or order; [and] or
- (3) Any defaulted education loan note held by the United Student Aid Funds, Inc. incurred under the federal Higher Education Act of 1965 (Public Law 89-329, 79 Stat. 1219), as amended.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

ACT 113

S.B. NO. 1733

A Bill for an Act Relating to Controlled Substances.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 329-11, Hawaii Revised Statutes, is amended to read as follows:

“**[§329-11]** Authority to schedule controlled substances. (a) Annually, upon the convening of each annual session of the state legislature, the

department shall report to the legislature [the effects of the implementation of this chapter in relation to the problems of drug abuse in Hawaii and shall recommend to the legislature any] additions, deletions, or revisions in the schedules of substances, enumerated in sections 329-14, 329-16, 329-18, 329-20, and 329-22, and any other recommendations which it deems necessary. The department shall not recommend [any] additions, deletions, or revisions in such schedules until after notice and an opportunity for a hearing is afforded all interested parties, except such hearing shall not be required if official notice has been received that the substance has been added, deleted, or rescheduled as a controlled substance under federal law. In making a determination regarding a substance, the department shall assess the degree of danger or probable danger of the substance by considering the following:

- (1) The actual or probable abuse of the substance including:
  - [(a)] (A) Its history and current pattern of abuse;
  - [(b)] (B) The scope, duration, and significance of abuse; and
  - [(c)] (C) A judgment of the degree of actual or probable detriment which may result from the abuse of the substance[.];
- (2) The biomedical hazard of the substance including:
  - [(a)] (A) Its pharmacology: the effects and modifiers of effects of the substance;
  - [(b)] (B) Its toxicology: the acute and chronic toxicity, interaction with other substances whether controlled or not, and liability to psychic or physiological dependence;
  - [(c)] (C) Risk to public health and particular susceptibility of segments of the population; and
  - [(d)] (D) Existence of therapeutic alternatives for substances which are or may be used for medical purposes[.];
- (3) A judgment of the probable physical and social impact of widespread abuse of the substance[.];
- (4) Whether the substance is an immediate precursor of a substance already controlled under this part[.]; and
- (5) The current state of scientific knowledge regarding the substance.

(b) After considering the factors enumerated above, the department shall make a recommendation to the legislature, specifying to what schedule the substance should be added, deleted, or rescheduled if it finds that the substance has a degree of danger or probable danger. The department may make such recommendation to the legislature prior to the submission of its annual report in which case the department shall publish and give notice to the public of such recommendation.

[(c)] (c) The state legislature has the sole authority to add, delete, or reschedule all substances enumerated in the schedules in sections 329-14, 329-16, 329-18, 329-20, and 329-22.

[(d)] (c) If the legislature designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

[(e)] (d) If a substance is added, deleted, or rescheduled as a controlled substance under federal law and notice of the designation is given to the department, the department shall recommend that a corresponding change in Hawaii law be made [by the state legislature, unless the department objects to the change. In that case, the department shall publish the reasons for objection and afford all interested parties an opportunity to be heard. Following the hearing, the department shall announce its decision and shall

## ACT 114

notify the legislature in writing of the change in federal law or regulations and of the department's recommendation]. The department shall similarly designate the substance as added, deleted, or rescheduled under this chapter after the expiration of thirty days from publication in the Federal Register of a final order and such change shall have the effect of law. If a substance is added, deleted, or rescheduled under this subsection, the control shall be temporary and, if the next regular session of the state legislature has not made the corresponding changes in this chapter, the temporary designation of the added, deleted, or rescheduled substance shall be nullified."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

## ACT 114

S.B. NO. 1738

A Bill for an Act Relating to the Employees' Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-119, Hawaii Revised Statutes, is amended to read as follows:

**"§88-119 Investments.** Investments may be made in:

- (1) Real estate loans and mortgages. Obligations (as defined in section 431-286) of any of the following classes:
  - (A) Obligations secured by mortgages of nonprofit corporations desiring to build multirental units (ten units or more) subject to control of the government for occupancy by families displaced as a result of government action.
  - (B) Obligations secured by mortgages insured by the federal housing administration.
  - (C) Obligations for the repayment of home loans made under the Servicemen's Readjustment Act of 1944 or under Title II of the National Housing Act.
  - (D) Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple; provided that the amount of the obligation shall not at the time investment is made therein exceed [seventy-five] eighty per cent of the value of the real estate and improvements mortgaged to secure it, [except that if the obligation is for an amount of \$75,000 or less, the amount of the obligation shall not exceed eighty per cent of the real estate and improvements mortgaged to secure it,] and except that the amount of the obligation at the time investment is made therein may exceed [seventy-five] eighty per cent but no more than ninety per cent of the value of the real estate and improvements mortgaged to secure it; provided further that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than



[seventy-five] eighty per cent of the value of the real estate and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to [seventy-five] eighty per cent of the market value of the real estate and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board of trustees. Real estate shall not be deemed to be encumbered within the meaning of this subparagraph by reason of the existence of any of the restrictions, charges, or claims described in section 431-293(a).

- (E) Other obligations secured by first mortgages of leasehold interests in improved real estate; provided that (i) each such leasehold interest at such time shall have a current term extending at least two years beyond the stated maturity of the obligation it secures, and (ii) the amount of the obligation shall not at the time investment is made therein exceed [seventy-five] eighty per cent of the value of the respective leasehold interest and improvements, [except that if the obligation is for an amount of \$75,000 or less, the amount of the obligation shall not exceed eighty per cent of the value of the respective leasehold interest and improvements,] and except that the amount of the obligation, at the time investment is made therein, may exceed [seventy-five] eighty per cent but no more than ninety per cent of the value of the leasehold interest and improvements mortgaged to secure it; provided further that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than [seventy-five] eighty per cent of the value of the leasehold interest and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to [seventy-five] eighty per cent of the market value of the leasehold interest and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board of trustees.
- (F) Obligations for the repayment of home loans guaranteed by the department of Hawaiian home lands pursuant to section 214(b) of the Hawaiian Homes Commission Act, 1920.
- (G) Obligations secured by second mortgages on improved real estate for which the mortgagor procures a second mortgage on the improved real estate for the purpose of acquiring the leaseholder's fee simple interest in the improved real estate; provided that any prior mortgage does not contain provisions which might jeopardize the security position of the retirement system or the borrower's ability to repay the mortgage loan.

The board of trustees may retain such real estate, including leasehold interests therein, as it may acquire by foreclosure of mortgages or in enforcement of security, or as may be conveyed

to it in satisfaction of debts previously contracted; provided that all such real estate, other than leasehold interests, shall be sold within five years after acquiring the same, subject to extension by the governor for additional periods not exceeding five years each, and that all such leasehold interests shall be sold within one year after acquiring the same, subject to extension by the governor for additional periods not exceeding one year each.

- (2) Government obligations, etc. Obligations of any of the following classes:
  - (A) Obligations issued or guaranteed as to principal and interest by the United States or by any state thereof, or by the Dominion of Canada or by any province thereof, or by any municipal or political subdivision or school district of any of the foregoing; provided that principal of and interest on such obligations are payable in currency of the United States.
  - (B) Revenue bonds, whether or not permitted by any other provision hereof, of the State or any municipal or political subdivision thereof, including the board of water supply of the city and county of Honolulu, and street or improvement district bonds of any district or project in the State.
  - (C) Obligations issued or guaranteed by any federal home loan bank including consolidated federal home loan bank obligations, the Home Owner's Loan Corporation, the Federal National Mortgage Association, or the Small Business Administration.
- (3) Corporate obligations. Obligations of any corporation created or existing under the laws of the United States or of any state or district thereof, and qualified under any of the following:
  - (A) Fixed interest-bearing obligations, if the average annual net earnings of the obligor or guarantor available for its fixed charges for a period of five fiscal years next preceding the date of the investment have equalled at least one hundred fifty per cent of its average annual fixed charges applicable to the period and if its net earnings for the last year of the period have equalled at least one hundred fifty per cent of its fixed charges for such year.
  - (B) Fixed interest-bearing obligations secured by assignment of a lease or leases, or the rentals payable thereunder, of real or personal property (including, without limitation, charters of vessels) to a corporation created or existing under the laws of the United States or of any state or district thereof; provided that (i) the fixed rentals assigned shall be sufficient to repay the principal of and interest on the obligation within the unexpired term of the lease, exclusive of the term which may be provided by any option of renewal, and (ii) the net earnings of the corporation shall meet the requirements described in subparagraph (A).
  - (C) Fixed interest-bearing obligations secured by rights or assignment of rights under a contract (including, without limitation, a contract for the sale of products, materials, supplies, or other property, or for the furnishing of transportation or services) with a corporation created or existing under the laws of the United States or of any state or

district thereof; provided that (i) the rights securing such obligations shall include the right to receive payments sufficient to repay the principal of and interest on the obligations within the unexpired term of the contract, and (ii) the net earnings of the corporation shall meet the requirements described in subparagraph (A).

As used in this paragraph, the terms "fixed charges" and "net earnings available for fixed charges" shall have the meanings and application ascribed thereto in sections 431-286 and 431-287.

- (4) Preferred and common stocks. Shares of preferred or common stock of any corporation created or existing under the laws of the United States or of any state or district thereof[;] or of any country in the Pacific Basin or Western Europe; provided that the book value of the total investment in such stocks shall at no time exceed forty per cent of the total book value of all investments of the system.
- (5) Obligations eligible by law for purchase in the open market by federal reserve banks.
- (6) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the African Development Bank.
- (7) Obligations secured by collateral consisting of any of the securities or stock listed above and worth, at the time the investment is made, at least fifteen per cent more than the amount of the respective obligations.
- (8) Insurance company obligations. Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in Hawaii, including its separate accounts, and whether the investments allocated thereto are comprised of stocks or other securities or of real or personal property or interests therein.
- (9) Interests in real property. Interests in improved or productive real property in which, in the informed opinion of the board of trustees, it is prudent to invest funds of the system; provided that the total book value of these investments at no time shall exceed five per cent of the total book value of all investments in the system. For purposes of this paragraph, "real property" includes any property treated as real property either by local law or for federal income tax purposes. Investments in improved or productive real property [shall] may be made directly or through pooled funds, including common or collective trust funds of banks and trust companies; group or unit trusts, limited partnerships, investment trusts, and other pooled funds invested on behalf of the system by investment managers retained by the [fund.] system.
- (10) Other securities[.] and futures contracts. Securities and futures contracts in which in the informed opinion of the board of trustees it is prudent to invest funds of the system, including interest rate and stock index futures contracts and options on such contracts within the meaning of the Commodity Exchange Act and traded on an exchange or board of trade regulated under that Act only to hedge against anticipated changes in interest rates and stock prices that might otherwise have an adverse

effect upon the value of the system's securities portfolios; covered put and call options on securities traded on one or more of the exchanges; and stock; whether or not the securities, [or] stock, futures contracts, or options on futures are expressly authorized by or qualify under the foregoing paragraphs, and notwithstanding any limitation of any of the foregoing paragraphs (including paragraph (4)); provided that the total book value of investments under this paragraph shall at no time exceed ten per cent of the total book value of all investments of the system."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

ACT 115

S.B. NO. 1739

A Bill for an Act Relating to the Employees' Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-46, Hawaii Revised Statutes, is amended to read as follows:

**"§88-46 Deducting employee contributions from salary[.] and employer pickup of employee contributions.** (a) The head of each state department and the finance director of each county shall cause to be deducted from the salary of each class A or class B member on each and every payroll under his jurisdiction, for each and every payroll period, the percentage of compensation of each member as provided under section 88-45. The total amount of deductions made from the salaries of employees and a record of the amount deducted from each member's compensation shall be transmitted to the system monthly or at such other times as may be agreed upon by the board of trustees. The amounts so deducted shall be paid into the annuity savings fund and the post retirement fund and shall be credited to the individual accounts of the member from whose compensation the deductions were made. Regular interest shall also be credited to the individual account of the member in the annuity savings fund.

(b) The State and each county, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended, shall pick up and pay the contributions which would otherwise be payable by each class A or class B member for service after December 31, 1987. The contributions so picked up shall be treated as employer contributions for purposes of determining the amounts of federal income taxes to withhold from each class A or class B member's compensation.

(c) Member contributions picked up by the employer shall be paid from the same source of funds used for the payment of compensation to a member. A deduction shall be made from each class A or class B member's compensation equal to the amount of the member's contributions picked up by the employer, provided that such deduction shall not reduce the member's compensation for purposes of computing benefits under this chapter.

(d) Member contributions picked up by the employer shall be transmitted to the system in accordance with subsection (a). Such contributions

shall be credited to a separate account within the member's individual accounts in the annuity savings fund and the post retirement fund, so that amounts contributed by the member before January 1, 1988 may be distinguished from the member contributions picked up by the employer. Regular interest shall also be credited to the individual account of the member in the annuity savings fund."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

## ACT 116

S.B. NO. 1740

A Bill for an Act Relating to the Employees' Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-132, Hawaii Revised Statutes, is amended to read as follows:

**"§88-132 Service credit; payment of contributions.** Every active member of the system who leaves [the member's regular position or employment] active service of the State or any county for the purpose of entering the military service [(which term as used in this section shall include national guard, air, naval and coast guard services)] of the United States in time of war or declared national or state emergency, or is called involuntarily to active duty after June 24, 1950, shall, so long as the member remains in military service, be allowed service credit in the system to the same extent as if the member were continuously in the active service of the State or a county, as the case may be, in the position which the member held immediately prior to the member's entry into military service[.]; provided that in no event shall the allowance of service credit exceed a period of four years.

The State or county, as the case may be, in whose service the member was employed immediately prior to the member's induction into military service shall, so long as the member remains in military service, pay all contributions [both] to the pension accumulation fund, post retirement fund, and to the annuity savings fund, and any other payment to the system, which would otherwise be payable to the system by the State, the county, or the member if the member were continuously in the active service of the State or county, as the case may be[.], so long as the member remains continuously in military service, but in no event shall payment be made for more than four years. This section shall apply only to members who return to State or county government service within ninety days of release from active duty under honorable conditions."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon approval.

(Approved May 31, 1987.)

## A Bill for an Act Relating to the Employees' Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-73, Hawaii Revised Statutes, is amended to read as follows:

**“§88-73 Service retirement.** Retirement of a member on a service retirement allowance shall be made by the board of trustees as follows:

- (1) Any member who has at least five years of credited service and who has attained age fifty-five or any member who has at least twenty-five years of credited service or any member who has at least ten years of credited service, including service as a judge, an elective officer, or the chief clerk [and] or the sergeant at arms of [both houses] either house of the legislature, may retire upon [his] written application to the board specifying on what date, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, [he] the member desires to be retired. In the event of the death of a member after the date of the filing of the member's written application to retire, the designated beneficiary, otherwise the personal representative of the member's estate, shall receive the allowance under the option selected by the member which would have been payable had the member retired, and the benefits paid to the beneficiary or representative shall be computed as though the member had died on or after the effective date of the member's retirement.
- (2) Any member of the legislature who attains age sixty-five may retire and receive a service retirement allowance although [he] the member continues to fill [his] the elective position.
- (3) For the purpose of computing or determining benefits for an elective officer or judge, or any beneficiary of either, the date upon which [he] the elective officer or judge elected to retire, as provided by section 88-61(c), after attaining an allowance of seventy-five per cent of [his] average final compensation, shall be used as the effective date of retirement; provided that the elective officer or judge may continue in active service, but [he] shall not receive a retirement allowance until [he leaves] termination of active service; however, upon [his] leaving active service [he] the elective officer or judge shall receive the retirement allowance provided for in section 88-74, together with the post retirement allowances provided for in section 88-90, which post retirement allowances shall be computed from the date of the election as though [he] the elective officer or judge had left active service on that day.
- (4) In the case of a class A or B member who also has prior credited service under part VII of this chapter, total credited service as a class A, class B, and class C member shall be used to determine the eligibility for retirement allowance.”

SECTION 2. Section 88-74, Hawaii Revised Statutes, is amended to read as follows:

**“§88-74 Allowance on service retirement.** Upon retirement [for] from service, a member shall receive a retirement allowance as follows:

- (1) If the member has attained the age of fifty-five, a retirement allowance of [~~one-fiftieth~~] two per cent of the member's average final compensation [~~of the member~~] multiplied by the total number of years of the member's credited service[;] as a class A and B member, plus a retirement allowance of one and one-fourth per cent of the member's average final compensation multiplied by the total number of years of prior credited service as a class C member; provided that after June 30, 1968, if the member has at least ten years of credited service of which the last five or more years prior to retirement is credited service as a firefighter or police officer[;], and provided that after June 30, 1977, if the member has at least ten years of credited service of which the last five or more years prior to retirement is credited service as a corrections officer, then for each year of service as a firefighter, a police officer, or a corrections officer, the retirement allowance shall be two and one-half per cent of the member's average final compensation; provided further that the maximum retirement allowance for such a member shall not exceed eighty per cent of the member's average final compensation. If the member has not attained the age of fifty-five, the member's retirement allowance shall be computed as though the member had attained age fifty-five, reduced in accordance with factors of actuarial equivalence adopted by the board upon the advice of the actuary; provided that no such reduction shall be made if the member has at least twenty-five years of credited service as a firefighter, police officer, corrections officer, or sewer worker, of which the last five or more years prior to retirement is credited service in such capacities.
- (2) If the member has made voluntary additional contributions for the purchase of an additional annuity and has not applied for the refund thereof as permitted by section 88-72, the member may accept such refund at the time of retirement or, in lieu thereof, receive in addition to the retirement allowance provided in paragraph (1), an annuity which is the actuarial equivalent of such additional contributions with regular interest.
- (3) If the member has credited service as a judge, an elective officer, or the chief clerk [~~and~~] or the sergeant at arms of [~~both houses~~] either house of the legislature, the member's retirement allowance shall be computed on the following basis:
  - (A) Irrespective of age, for each year of credited service as a judge, an elective officer, or the chief clerk [~~and~~] or the sergeant at arms of [~~both houses~~] either house of the legislature, three and one-half per cent of the member's average final compensation in addition to an annuity which is the actuarial equivalent of the member's accumulated contributions allocable to the period of such service; and
  - (B) For all other credited service as provided in paragraphs (1) and (2). No allowance shall exceed seventy-five per cent of [~~the~~] such member's average final compensation. If the allowance exceeds this limit, it shall be adjusted by reducing the annuity included in subparagraph (A), and the portion of the accumulated contributions specified in that subparagraph as may be in excess of the requirements of the reduced annuity shall be returned to the member.

## ACT 117

The allowance for judges under this section, together with the retirement allowance provided by the federal government for similar service, shall in no case exceed seventy-five per cent of such member's average final compensation."

SECTION 3. Section 88-251, Hawaii Revised Statutes, is amended to read as follows:

"**[§88-251] Applicability.** The following provisions of part II of this chapter shall apply to this part:

- (1) Subpart A, except the definitions provided in section 88-21, unless expressly adopted in section 88-261;
- (2) Subpart B, except sections 88-45, 88-46, 88-48, and 88-52 to 88-62;
- (3) Subpart C, except sections 88-71 to 88-78, 88-80, 88-81, 88-83 to 88-89, 88-96, [and] 88-97[;], and 88-98;
- (4) Subpart D, except sections 88-112 and 88-113; and
- (5) Subpart E, except sections 88-134 to 88-139."

SECTION 4. Section 88-273, Hawaii Revised Statutes, is amended to read as follows:

"**[§88-273] Break in service; reemployment.** (a) Any class C member who terminates service prior to accumulating ten years of credited service, excluding unused sick leave, shall cease to be a member and shall forfeit all credited service [subject to subsections (b) and (c).]; provided that:

- (1) If the former class C member becomes a member again within one calendar year from the date of termination, all service credit for previous service shall be restored. If the former class C member becomes a member again more than one calendar year after the date of termination, one month of service credit for previous service shall be restored for each month of service rendered following the return to membership.
- (2) If the former class C member becomes a class A or class B member within one calendar year from the date of termination, all class C service credit for previous service shall be restored. If the former class C member becomes a class A or class B member more than one calendar year after the date of termination, one month of class C service credit for previous service shall be restored for each month of service rendered following the return to membership.

(b) [If the former class C member becomes a member again within one calendar year from the date of termination, all service credit for previous service shall be restored. If the former class C member becomes a member again more than one calendar year after the date of termination, one year of service credit for previous service shall be restored for each year of service rendered following return to membership.] Any class C member who terminates service with a vested right and who subsequently becomes a class A, class B, or class C member shall retain all service credit for previous service and shall be credited with additional service credit for service rendered following the return to membership.

(c) Any retirant who retired under the provisions of part VII of this chapter and returns to service requiring membership in the system as a class C member shall be reenrolled as an active member, and the retirant's retirement allowance shall be suspended. At such time as the member again retires, the retirement allowance shall be the allowance to which the member was entitled under the mode of retirement selected when the member



previously retired and which was suspended; plus, for the period of service during the member's reemployment, the allowance to which the member is entitled for that service based on the mode of retirement initially selected and computed for the member's age, average final compensation, and other factors in accordance with the benefit formula of a class C member in existence at the time of the member's final retirement.

(d) Any retirant who retired under part VII and returns to service requiring membership in the system as a class A or class B member shall be reenrolled as an active member, and the retirant's retirement allowance shall be suspended. At such time as the member again retires, the retirement allowance shall be the allowance to which the member was entitled under the mode of retirement selected when the member previously retired and which was suspended; plus, for the period of service during the member's reemployment, the allowance to which the member is entitled for that service based on the mode of retirement initially selected and computed for the member's age, average final compensation, and other factors in accordance with the benefit formula of a class A or class B member in existence at the time of the member's final retirement."

SECTION 5. Section 88-282, Hawaii Revised Statutes, is amended to read as follows:

**“[~~§~~88-282] Amount of allowance.** (a) The amount of the annual normal retirement allowance payable to a retired member shall be one and one-fourth per cent of the average final compensation multiplied by the number of years of credited service.

(b) The amount of the annual early retirement allowance payable to a retired member shall be equal to the annual normal retirement allowance reduced by one-half per cent for each month the member is less than age sixty-two at retirement.”

SECTION 6. Section 88-283, Hawaii Revised Statutes, is amended to read as follows:

**“[~~§~~88-283] Retirement allowance options.** A member may elect to have the member's normal [or], early, or disability retirement allowance paid under one of the following actuarially equivalent amounts:

- (1) Option A: A reduced allowance payable to the member, then upon the member's death, one-half of such allowance to the member's beneficiary designated by the member at the time of retirement, for the life of the beneficiary.
- (2) Option B: A reduced allowance payable to the member, then upon the member's death, the same allowance paid to the member's beneficiary designated by the member at the time of retirement, for the life of the beneficiary.
- (3) Option C: A reduced allowance payable to the member, and if the member dies within ten years, the same allowance paid to the member's beneficiary designated by the member at the time of retirement, for the balance of the ten-year period.
- (4) Any election of a mode of retirement shall be irrevocable.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

A Bill for an Act Relating to the Employees' Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-47, Hawaii Revised Statutes, is amended to read as follows:

**"§88-47 Membership.** There shall be three classes of members in the system to be known as class A members, class B members, and class C members, defined as follows:

- (1) Class A members shall consist of members covered by section 88-74(3), and those members in service prior to July 1, 1984, including those who are on approved leave of absence, who are covered by Title II of the Social Security Act on account of service creditable under this part. These members shall consist of:
  - (A) All employees who enter the membership of the system after June 30, 1957, except employees in positions to which coverage under Title II of the Social Security Act is not extended; and
  - (B) All employees who were members of the system on July 1, 1957, who elected to be covered by the Social Security Act.
  - (C) All former class A retirants who return to employment after June 30, 1984 requiring the retirant's active membership.
- (2) Class B members shall consist of all members in the system who are not class A or class C members.
- (3) Except for members covered by section 88-74(3), class C members shall consist of all employees in positions covered by Title II of the Social Security Act who:
  - (A) First enter service after June 30, 1984;
  - (B) Reenter service after June 30, 1984 without vested benefit status as provided in section 88-96(b); [or]
  - (C) Make the election to become a class C member as provided in part VII of this chapter[.]; or
  - (D) Are former class C retirants who return to service requiring the retirant's active membership.
- (4) None of the provisions of this part shall apply to class C members except as specifically provided in part VII of this chapter."

SECTION 2. Section 88-98, Hawaii Revised Statutes, is amended to read as follows:

**"§88-98<sup>1</sup> Return to service of a retirant.** Any retirant who returns to employment after June 30, 1984 requiring the retirant's active membership shall be reenrolled as an active member of the system in the same class from which the retirant originally retired and the retirant's retirement allowance shall thereupon be suspended. At such time as the retirant again retires, the retirant's retirement allowance shall consist of:

- (1) If the retirant has less than three years of credited service during the retirant's period of reemployment, the allowance to which the retirant was entitled under the mode of retirement the retirant selected when the retirant previously retired and which was suspended; plus, for the retirant's period of service during the retirant's reemployment, the allowance to which the retirant

is entitled for such service computed for the retirant's age, average final compensation, and other factors in accordance with the benefit formula in existence at the time of the retirant's final retirement.

- (2) If the retirant has three or more years of credited service during the retirant's period of reemployment, the allowance computed as if the retirant were retiring for the first time provided that in no event shall such allowance be less than the amount determined in accordance with subsection (1) hereof.

The board of trustees shall adopt such rules as may be required to administer the purposes of this section."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

Note

1. So in original.

ACT 119

S.B. NO. 1744

A Bill for an Act Relating to Employment Security.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 383, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§383- Special unemployment insurance administration fund.** (a) There is created in the state treasury a special fund to be known as the special unemployment insurance administration fund. All interest, fines, and penalties collected under this chapter on and after October 1, 1987, shall be paid into this fund and shall not be commingled with other state funds but maintained in a separate account on the books of the depository. Interest earned upon moneys in the administration fund shall be deposited and credited to the administration fund.

All moneys payable to the administration fund shall be transferred immediately into the administration fund from the clearing account of the unemployment compensation fund. The director of finance shall be the treasurer and custodian of the administration fund and shall administer the fund in accordance with directions by the director of labor and industrial relations. The director of finance shall be liable on the director's official bond for the faithful performance of all duties in connection with the administration fund. All sums recovered on such surety bond for losses sustained by the administration fund shall be deposited into the fund.

(b) Notwithstanding any other provisions of this section to the contrary, the moneys in the administration fund shall be used for the payment of the following expenses and obligations relating to the administration of the unemployment insurance program:

- (1) Refunds or adjustments of interest on delinquent contributions and penalties or fines erroneously collected under this chapter;

ACT 119

- (2) Expenses for which allocation of federal funds have been duly requested but not yet received, subject to the reimbursement of the expenditures against the funds received;
  - (3) Expenditures deemed necessary by the director in the administration of this chapter for which no allocations of federal administration funds have been made; and
  - (4) Interest due under the provisions of section 1202(b) of the Social Security Act, as amended, for advances made to the unemployment compensation fund.
- (c) No moneys in the administration fund shall be expended for any purpose for which federal funds would otherwise be available.
- (d) All expenditures from the administration fund, except for refunds of penalties and interest erroneously collected, shall be approved by the director.
- (e) All moneys deposited or paid into the administration fund shall be continuously available to the director for expenditures consistent with this section and shall not lapse at any time. The director may transfer moneys deposited in the administration fund to the unemployment compensation fund as the director deems necessary.
- (f) Twenty days before the convening of the Legislature in regular session each year, the director of finance shall submit a report to the legislature on the financial status of the special unemployment insurance administration fund.”

SECTION 2. Section 383-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Administration fund” means the special unemployment insurance administration fund established pursuant to section 383-\_\_\_\_\_.”

SECTION 3. Section 383-74, Hawaii Revised Statutes, is amended to read as follows:

**“§383-74 Appeal; correction of assessment or contributions.** Any person aggrieved by any assessment of a contribution or a penalty or contributions assessed pursuant to this chapter, having paid the contribution or penalty, may appeal from the assessment by filing a written notice of appeal with the department within twenty days after the date of mailing of the notice of assessment to the person’s last known address. The appeal shall be heard by the referee in accordance with applicable provisions of sections 383-38 and 383-39. Any amount determined to have been erroneously paid as a result of the final determination of the appeal in favor of the employing unit, or as a result of a final judgment for the employing unit in an action brought pursuant to section 40-35, shall be refunded, without interest and without the addition of any other charges, in the same manner as other refunds under this chapter. Notwithstanding any other provisions of law to the contrary, any amount which is paid under protest or which is covered by any appeal or action referred to in this section shall not be held as a special deposit, but the amount shall in all respects be subject to [section] sections 383-122 and 383-\_\_\_\_\_ to the same effect as though the amount had not been paid under protest and was not covered by the appeal or action.”

SECTION 4. Section 383-76, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If not later than four years after the date of payment of any amount as a contribution or contributions or interest thereon or penalty with respect thereto, an employing unit which has made such payment

erroneously makes application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because the adjustment cannot be made within a reasonable time, and if the department of labor and industrial relations determines that payment of such contribution or contributions or interest or penalty or any portion thereof was erroneous, the department shall allow the employing unit to make an adjustment thereof, without interest, in connection with subsequent contribution payments by the employing unit, or if the adjustment cannot be made within a reasonable time, the department shall refund from the unemployment compensation fund[,] or the administration fund as may be appropriate, without interest, the amount erroneously paid. For like cause and within the same period, adjustment or refund may be so made on the department's own initiative. Any number of such payments erroneously made by an employing unit may form the basis of one application. The four-year limitation period stated above shall be applicable with respect to payments made in the year 1937 and in all subsequent years."

SECTION 5. Section 383-121, Hawaii Revised Statutes, is amended to read as follows:

**"§383-121 Unemployment compensation fund; establishment and control.** There is established in the treasury of the State as a special fund, separate and apart from all public moneys or funds of the State, an unemployment compensation fund, which shall be administered by the department of labor and industrial relations exclusively for the purposes of this chapter. All contributions pursuant to this chapter shall be paid into the fund and all compensation and benefits payable pursuant to this chapter shall be paid from the fund. All moneys in the fund shall be mingled and undivided. The fund shall consist of:

- (1) All contributions collected pursuant to this chapter[, together with any interest thereon collected pursuant to section 383-73];
- [(2) All fines and penalties collected pursuant to this chapter;
- (3)] (2) Interest earned on any moneys in the fund;
- [(4)] (3) Any property or securities acquired through the use of moneys belonging to the fund;
- [(5)] (4) All earnings of such property or securities;
- [(6)] (5) All moneys credited to this State's account in the unemployment trust fund pursuant to section 903 of the Social Security Act, as amended; and
- [(7)] (6) All other moneys received for the fund from any other source."

SECTION 6. Section 383-122, Hawaii Revised Statutes, is amended to read as follows:

**"§383-122 Accounts and deposit.** The director of finance shall maintain within the fund three separate accounts:

- (1) A clearing account;
- (2) An unemployment trust fund account;
- (3) A benefit account.

All moneys payable to the fund, upon receipt thereof by the director of finance, shall be immediately deposited in the clearing account. The director of finance of the State shall be the treasurer and custodian of the fund and shall administer the fund in accordance with directions of the department of labor and industrial relations.

All moneys in the clearing account after clearance thereof shall, except as herein otherwise provided, be deposited immediately with the

## ACT 119

Secretary of the Treasury of the United States to the credit of the account of this State in the unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act, as amended, any provisions of law in this State relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding. Refunds of contributions payable pursuant to section 383-76 and section 383-7(6) may be paid from the clearing account or the benefit account. The benefit account shall consist of all moneys requisitioned from the State's account in the unemployment trust fund in the United States treasury. Except as herein otherwise provided, moneys in the clearing and benefit accounts may be deposited in any depository bank in which general funds of the State may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Moneys in the clearing and benefit accounts shall not be commingled with other state funds, but shall be maintained in separate accounts on the books of the depository bank. The money shall be secured by the depository bank to the same extent and in the same manner as required by the general depository law of this State; and collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of the State. The director of finance shall be liable on the director's official bond for the faithful performance of the director's duties in connection with the unemployment compensation fund provided for under this chapter. The liability on the official bond shall be effective immediately upon the enactment of this provision. All sums recovered on such surety bond for losses sustained by the unemployment compensation fund shall be deposited in the fund."

SECTION 7. Section 383-123, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Withdrawals. Moneys requisitioned from the State's account in the unemployment trust fund shall be used exclusively for the payment of benefits and for refunds of contributions pursuant to section 383-76 and section 383-7(6), except that moneys credited to this State's account pursuant to section 903 of the Social Security Act, as amended, shall be used exclusively as provided in subsection (b) of this section. The director of finance shall from time to time, with the approval of the department of labor and industrial relations in accordance with [regulations] rules prescribed by the comptroller of the State, requisition from the unemployment trust fund such amounts, not exceeding the amount standing to this State's account therein, as it deems necessary for the payment of such benefits and refunds of contributions for a reasonable future period. Upon receipt thereof the moneys shall be deposited in the benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of moneys in their custody. All benefits and refunds of contributions shall be paid from the fund upon warrants drawn upon the director of finance by the comptroller of the State supported by vouchers approved by the department. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which the sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits and refunds during succeeding periods, or, in the discretion of the department, shall be redeposited with the [secretary] Secretary of the [treasury] Treasury of the United States, to the

credit of this State's account in the unemployment trust fund, as provided in section 383-122."

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 9. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 120**

S.B. NO. 1745

A Bill for an Act Relating to the Workers' Compensation Medical Fee Schedule.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-21, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The liability of the employer for medical care, medical services, and medical supplies shall be limited to the charges computed as set forth in the section. The director shall make determinations of such charges and promulgate fee schedules based upon such determinations as are set forth in this section. For the calendar year 1974 and for each succeeding calendar year thereafter the charges shall be limited to the amounts determined in applicable regulations of the department which became effective on August 13, 1971, and amendments thereto, adjusted to reflect increases or decreases in the Consumer Price Index for the Honolulu region prepared by the Bureau of Labor Statistics of the United States Department of Labor which have occurred in the last twelve months ending [August 31] June 30 of the year preceding.

The adjustments in charges provided for in this section shall be computed annually and rounded to the next higher multiple of 10 cents in each case.

Notwithstanding the foregoing, the director shall review and if necessary revise the applicable regulations every three years, the review and revision to be conducted in accordance with section 91-3. The first review and revision shall be completed no later than December 1, 1974, to be effective January 1, 1975, and subsequent reviews or revisions shall be made at each three year interval thereafter. In making such reviews and revisions and adopting fee schedules pursuant thereto, the director shall establish reasonable fees for medical care, medical services, and medical supplies and may take into consideration in making such determination the charges made in the State for similar treatment of injuries which are not compensable under this chapter. The director may at any time, in the foregoing manner, establish an additional fee schedule or schedules to cover charges for medical care, medical services, and medical supplies not previously regulated pursuant to this section.

The liability of the employer may exceed the amount set forth in such fee schedule or schedules only under conditions prescribed by the director."

SECTION 2. Material to be repealed is bracketed. New statutory material is underscored.

ACT 121

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

ACT 121

S.B. NO. 1746

A Bill for an Act Relating to Workers' Compensation Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Subpart C of part V of chapter 386, Hawaii Revised Statutes, is amended to read as follows:

**"C. PUBLIC BOARD MEMBERS, RESERVE POLICE OFFICERS, [AND] VOLUNTEER FIREFIGHTERS, VOLUNTEER BOATING ENFORCEMENT OFFICERS, AND VOLUNTEER CONSERVATION AND RESOURCES ENFORCEMENT OFFICERS"**

**§386-181 Generally.** (a) [Definitions as] As used in this section, "public board" means a governmental body, regardless of its designation, duly created under authority vested by law for the purposes of performing quasi-judicial, administrative, or advisory functions[.]; "reserve police officer" means a member of an authorized reserve force of a county police department who performs services in a voluntary and unpaid capacity under the authorized direction of an officer of [said] the department[.]; "volunteer firefighter" means a person who performs services for a county fire department in a voluntary and unpaid capacity under the authorized direction of an officer of [said] the department[.]; "volunteer boating enforcement officer" means a member of the authorized volunteer enforcement force of the harbors division, department of transportation, who performs services in a voluntary and unpaid capacity under the authorized direction of an officer of the department; and "volunteer [deputy fish and game warden] conservation and resources enforcement officer" means a member of the authorized volunteer enforcement force of the division of [fish and game,] conservation and resources enforcement, department of land and natural resources, State of Hawaii, who performs services in a voluntary and unpaid capacity under the authorized direction of an officer of [said] the department.

(b) Benefits of injured board members, reserve police officers, volunteer firefighters, volunteer boating enforcement officers, and volunteer [deputy fish and game wardens.] conservation and resources enforcement officers. If a member of a public board, a reserve police officer, a volunteer firefighter, a volunteer boating enforcement officer, or a volunteer [deputy fish and game warden] conservation and resources enforcement officer is injured while performing services for the board, county police department, county fire department, harbors division of the department of transportation, or division of [fish and game,] conservation and resources enforcement of the department of land and natural resources, under the conditions specified in section 386-3, [he or his] the person or the person's dependents shall be entitled to all compensation in the manner provided by this chapter and, for [its purpose] the purposes of this chapter, the [member] person shall, in every case, be deemed to have earned wages for the services.

(c) Computation of average weekly wages. In computing the average weekly wages of an injured public board member, reserve police officer, volunteer firefighter, volunteer boating enforcement officer, or volunteer



[deputy fish and game warden:] conservation and resources enforcement officer:

- (1) [His] The person's income from self-employment shall be considered wages;
- (2) [He] The person shall, in no event, be considered to have earned less than the minimum hourly wage prescribed in chapter 387;
- (3) Wages of other employees in comparable employment shall not be considered;
- (4) Section 386-51(5) shall not apply; and
- (5) All provisions of section 386-51 not inconsistent herewith shall apply."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

## ACT 122

S.B. NO. 1758

A Bill for an Act Relating to the Department of Planning and Economic Development.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to provide to the department of planning and economic development the authority to charge fees for services rendered and products provided by the department.

SECTION 2. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§201- Fees for services rendered and products provided.** (a) The department of planning and economic development may establish reasonable fees for services rendered and products provided by the department. The department shall maintain a reasonable relationship between the revenues derived from fees and the cost or fair value of services rendered and products provided.

(b) The department shall adopt rules pursuant to chapter 91 to carry out its responsibilities under this section."

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 123

S.B. NO. 1713

A Bill for an Act Relating to Government Assets.

*Be It Enacted by the Legislature of the State of Hawaii:*

## ACT 124

SECTION 1. Chapter 106, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§106- State surplus property revolving fund.** There shall be, in the state treasury, a state surplus property revolving fund into which all proceeds collected from the public sale of surplus state property and handling fees collected from state agencies for the storage or disposal of surplus state property shall be deposited. Expenditures from the fund shall be made by the comptroller to defray the costs of handling, storing, and disposing of such surplus state property. For purposes of this section, "surplus state property" means any personal property determined by a state agency to be excessive and transferred to the state surplus property branch for storage or disposal. The comptroller shall keep, or cause to be kept, a full record of all transactions involving the state surplus property revolving fund and shall maintain an inventory of all surplus state property and make an annual report to the governor and the legislature showing the collections and expenditures made for the preceding fiscal year."

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 124

H.B. NO. 285

A Bill for an Act Relating to Horizontal Property Regimes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the arbitration of disputes involving owners of a condominium, the association of owners, the board of directors, and the managing agents has provided an accessible, affordable, and nonthreatening forum for the resolution of conflicts.

The legislature further finds that avoiding the protracted and expensive litigation process by providing for the arbitration of horizontal property regime disputes is in the public interest and has yielded substantial benefits to all parties involved.

The purpose of this Act is to delete the termination date for the provisions in the horizontal property regime law relating to the arbitration of disputes in the interests of continuing the benefits to condominium dwellers and the public at large.

SECTION 2. Act 107, Session Laws of Hawaii 1984, is amended by amending section 6 to read as follows:

"SECTION 6. This Act shall take effect upon its approval [and terminate on July 1, 1987]."

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

## Note

1. Bracketed material only.

## ACT 125

H.B. NO. 477

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 521, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§521- Recovery of possession limited.** The landlord shall not recover or take possession of a dwelling unit by the wilful interruption or diminution of running water, hot water, or electric, gas, or other essential service to the tenant contrary to the rental agreement or section 521-42, except in case of abandonment or surrender. A landlord who engages in this act shall be deemed to have engaged in an unfair method of competition or unfair and deceptive acts or practices in the conduct of any trade or commerce within the meaning of section 480-2; provided that in addition to the penalties available under section 480-2, there shall also be minimum damages of three times the monthly rent or \$1,000, whichever is greater.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 126

H.B. NO. 521

A Bill for an Act Relating to Boxing Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 440-8.5, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[[§440-8.5]]]~~ Powers and duties of the ~~[board.]~~ commission. In addition to the powers and duties enumerated elsewhere in this chapter, the commission shall adopt rules pursuant to chapter 91 to provide for the following:**

- (1) A [trust/escrow] trust or escrow account system to ensure that all financial obligations are met by a promoter before a boxing contest. This system shall supersede all other financial obligatory requirements imposed on promoters by this chapter;
- (2) A public record accounting for the distribution of all tickets provided to the commission by a promoter and anything else of value which is provided to the commission;
- (3) An annual clinic or seminar on health and medical safety for boxers;
- (4) A mandatory neurological examination for any boxer who is knocked out in a boxing contest, and an eye examination [by a

ACT 127

licensed ophthalmologist] as part of a boxer's annual medical examination; and

- (5) An [annual review of the commission's rules and powers to insure that all rules and powers exercised are within the authority of the commission and pursuant to chapter 91.] automatic medical suspension from boxing for a period of time to be determined by the commission for any boxer who is knocked out from head blows or who has received a severe beating about the head. The period of time of the automatic medical suspension shall be based upon the severity of the beating received by the boxer."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

ACT 127

H.B. NO. 536

A Bill for an Act Relating to Victim Restitution.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§353- Victim restitution. The director of social services shall enforce victim restitution orders against moneys earned by the prisoner while incarcerated. The amount deducted and paid once annually to the victim shall be ten per cent of the prisoner's annual earnings. This section shall not apply to moneys earned on work furlough pursuant to section 353-22.5."

SECTION 2. Section 353-30, Hawaii Revised Statutes, is amended to read as follows:

"§353-30 Earnings exempt from garnishment, etc. No moneys earned by such prisoner and held by the department of social services and housing shall, to any amount whatsoever, except as provided for under section 353-\_\_\_, be subject to garnishment, levy, or any like process of attachment for any cause or claim against the prisoner."

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 1987.

(Approved May 31, 1987.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 128

H.B. NO. 708

A Bill for an Act Relating to Prisoner's Psychological Care.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§353- Election of private medical or psychological care by prisoners.** The director shall permit prisoners to retain any private licensed medical doctor or psychologist for their own care at the correctional facility in addition to such care as may be provided by the department; provided that any fees or other costs charged by a private medical doctor or psychologist for such care shall be the sole responsibility of the prisoner and that such care shall not put the correctional facility to any hazard and that such care shall conform to the department’s rules and established practices including any requirements concerning advance notice of visits with the prisoner. Medical doctors or psychologists who provide such care shall provide timely reports to the department as to the physical or psychological progress of the prisoner. If the private care is discontinued, the department shall be notified immediately by the private medical doctor or psychologist. In no event shall the department or the State incur any civil liability whatsoever as a result of any private medical or psychological care administered under this section.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

Note

1. Edited pursuant to HRS §23G-16.5.

**ACT 129**

H.B. NO. 922

A Bill for an Act Relating to Family Court.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 582, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**“§582- Amendment to compact concerning interstate rendition of juveniles alleged to be delinquent.** The Governor is authorized and directed to execute, with any other state or states legally joining the same, an amendment to the Interstate Compact on Juveniles in the form substantially as follows:

“Amendment to the Interstate Compact on Juveniles, Concerning Interstate Rendition of Juveniles Alleged to be Delinquent

- (1) This amendment shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute same.
- (2) All provisions and procedures of Articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of a felony. Any juvenile charged with being a delinquent by reason of violating a felony, shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such cases shall be filed in a court of

## ACT 130

competent jurisdiction in the requesting state where the violation of the felony is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the Compact shall be forwarded by the judge of the court in which the petition has been filed.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon approval.

(Approved May 31, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 130

H.B. NO. 1002

A Bill for an Act Relating to Impersonating a Law Enforcement Officer.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 710-1000(13), Hawaii Revised Statutes, is amended to read as follows:

“(13) [“Peace officer”] “Law enforcement officer” means any public servant, whether employed by the State or subdivisions thereof or by the United States, vested by law with a duty to maintain public order or, to make arrests for offenses or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.”

SECTION 2. Section 710-1016.5, Hawaii Revised Statutes, is repealed.

SECTION 3. Chapter 710, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

### “§710- Impersonating a law enforcement officer in the first degree.

(1) A person commits the offense of impersonating a law enforcement officer in the first degree if, with intent to deceive, the person pretends to be a law enforcement officer and is armed with a firearm.

(2) Impersonating a law enforcement officer in the first degree is a class C felony.

### §710- Impersonating a law enforcement officer in the second degree.

(1) A person commits the offense of impersonating a law enforcement officer in the second degree if, with intent to deceive, the person pretends to be a law enforcement officer.

(2) Impersonating a law enforcement officer in the second degree is a misdemeanor.

**§710- Presumptions.** Any person other than a law enforcement officer, who wears the uniform or displays the badge or identification card of a law enforcement officer, or who wears a uniform or displays a badge or identification card resembling the uniform, badge or identification card of a law enforcement officer, or a badge or identification card purported to be a law enforcement officer’s badge or identification card, shall be presumed to be pretending to be a law enforcement officer.

**§710- Defense.** (1) Employment by the state or a subdivision thereof or by the United States as a law enforcement officer at the time of the conduct charged is an affirmative defense to a prosecution for impersonating a law enforcement officer.

(2) It is no defense to a prosecution for impersonating a law enforcement officer that the office the person pretended to hold did not in fact exist."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

Note

1. Edited pursuant to HRS §23G-16.5.

**ACT 131**

H.B. NO. 1233

A Bill for an Act Relating to Net Fishing in Hilo Bay.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 188-34, Hawaii Revised Statutes, is amended to read as follows:

**"§188-34 Fishing in Honolulu Harbor, Hilo [bay,] harbor, restricted.** It is unlawful to take or kill fish by means of any draw, drag, or seine net in the waters of the harbor of Honolulu; provided that commercial marine licensees as defined in chapter 187A may take bait fish by means of any draw, drag, or seine net during the periods scheduled by the harbor master.

It is unlawful [except for commercial marine licensees taking bait fish, or persons using their catch solely for home consumption,] to take or kill fish by means of any [draw, drag, or seine] net in the waters of that portion of the bay of Hilo bounded by the breakwater, a line from the outer end of the breakwater to Alealea Point, and the shoreline from Alealea Point to the inshore end of the breakwater[.], provided that commercial marine and pond operators with appropriate licenses issued by the department of land and natural resources may take bait fish or pua, or persons may use thrownet, opae net, crab net, or nehu net not longer than fifty feet to take nehu for family consumption or bait purposes."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

**ACT 132**

H.B. NO. 1327

A Bill for an Act Relating to Youth Correctional Facilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 352-23, Hawaii Revised Statutes, is amended to read as follows:

## ACT 133

“§352-23 Community services [section.] program. There is established a community services [section] program within the youth correctional facilities which shall coordinate the placement of persons committed to the care of the director in educational, vocational, and work release programs and residential placement. The [section] program also shall advise the director or the director’s duly authorized agent as to the granting of parole, furlough, release, and other matters affecting the commitment of a person. [The community services section shall have an administrator with sufficient support staff to effectuate the purposes of this section and section 352-24.]”

SECTION 2. Section 352-24, Hawaii Revised Statutes, is amended to read as follows:

“§352-24 [Office of juvenile] Juvenile parole[.] program. The director shall establish [an office] a program of juvenile parole. [The office shall be part of the community services section and shall include a sufficient number of juvenile parole officers to effectively accomplish the purposes of this section specifically and this chapter generally.] The duties of the juvenile parole officer shall include:

- (1) Assisting in locating appropriate residential placement for paroled persons;
- (2) Efforts to obtain suitable employment for paroled persons;
- (3) Assisting a paroled person in adjusting to community life by familiarizing the person with available community resources and providing opportunities for counseling;
- (4) Maintaining a record of all paroled persons and periodically updating information therein concerning the residence, employment, and wages, and such details concerning the person’s health, conduct, and environment as may come to the juvenile parole officer’s attention either from reports or through the officer’s own personal investigation;
- (5) To make such other investigations, secure such other information and data, perform such other duties, and make such other reports, in addition to those which may be required by law, as may be required by the director.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1987.)

## ACT 133

H.B. NO. 1585

A Bill for an Act Relating to Horizontal Property Regimes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 514A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§514A- **Availability of project documents**. An accurate copy of the declaration of horizontal property regime, the by-laws of the association of apartment owners, the house rules, if any, the master lease, if any, a sample original conveyance document, all public reports and any amendments thereto, shall be kept at the managing agent’s office. The managing agent



shall provide copies of those documents to owners, prospective purchasers and their prospective agents during normal business hours, upon payment to the managing agent of a reasonable charge to defray any administrative or duplicating costs. In the event that the project is not managed by a managing agent, the foregoing requirements shall be undertaken by a person or entity, if any, employed by the association of apartment owners, to whom this function is delegated.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval and shall apply to all existing horizontal property regimes.

(Approved May 31, 1987.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 134

S.B. NO. 1451

A Bill for an Act Relating to Home and Community-Based Care for the Elderly.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 192, Session Laws of Hawaii 1983, as amended by Act 207, Session Laws of Hawaii 1985, is amended by amending sections 1 to 10 to read as follows:

“SECTION 1. **Purpose.** The legislature finds and declares that the provision of comprehensive [extended] home services for the chronically ill and disabled residents of the State of Hawaii is a priority concern. The development of more economical methods of caring for this growing population group as an alternative to the construction of additional institutional facilities should be a primary focus of the State’s action.

Comprehensive services rendered to [patients] clients in their homes reduce the possibility of prolonged institutionalization or the inappropriate utilization of scarce institutional beds, as well as the concomitant high costs and other associated adverse social and medical implications of institutionalization.

The legislature intends that there be a public commitment to the appropriate provision and expansion of home services which will provide a single point of entry and access to a comprehensive and coordinated program of care in the home for Hawaii’s growing aged and chronically ill population.

SECTION 2. **Definitions.** For the purpose of this Act:

“Certified home health agency” means an agency licensed by the State to provide health services, such as skilled nursing, home health aides, and physical therapy in the [patient’s] client’s home.

“Comprehensive assessment” means the evaluation of the [patient’s] client’s medical, social, and environmental needs.

“Demonstration project” means the nursing home without walls demonstration project.]

“Comprehensive home services” means the provision of a broad range of services which will ensure the [patient’s] client’s safety and well-being at home over an indefinite period of time.

## ACT 134

“Plan of care” means a written plan, including goals, objectives, and methodology, designed to meet the service requirements of the [patient,] client, caregiver, or both, as approved by the physician.

“Safety and well-being” means assessment of and determination that the [patient’s] client’s home environment is safe and that the care requirements of the [patient] client have been determined and can be provided for in the home setting.

“Waiver” means an intentional relinquishment of certain rights or obligations.

**SECTION 3. Establishment of a community long term care/nursing home without walls [demonstration project.] program.** (a) A community long term care/nursing home without walls [demonstration project] program shall be established in the department of social services and housing[, medical care administration office,] to [demonstrate the provision of] provide comprehensive home services for chronically ill and disabled [patients] clients who are certified as requiring acute, skilled nursing, or intermediate level care.

(b) The provision of services [of the demonstration project] shall be statewide.

(c) The duration of the [demonstration project] program shall be from July 1, 1983, through June 30, [1987.] 1989.

(d) The number of patients who are being actively served by the demonstration project shall not surpass two hundred at any point in time during the duration of the demonstration project.

(e) (d) A ceiling shall be placed on the [demonstration project] nursing home without walls program expenditures, limiting total expenditures to not more than seventy-five per cent of the Medicaid cost to maintain the [demonstration project’s approved number of patients] nursing home without walls program caseload at their appropriate level of institutional care [except that the ceiling shall be raised to one hundred per cent of the average annual statewide cost of institutional care for the counties of Hawaii, Kauai, and Maui to provide for a two-year development phase of the project]. The cost of Medicaid for institutional care which shall be the basis for the expenditure ceiling shall be determined by the department of social services and housing.

(f) (e) A ceiling shall be placed on individual [patient] client care expenditures so that the annual cost of [patient] client care through the [demonstration project] nursing home without walls program does not exceed seventy-five per cent of the annual Medicaid cost to provide the appropriate level of care for the [patient] client in either a skilled nursing or intermediate care facility. If there is more than one [patient] client in a family, the expenditure ceilings of each [patient] client shall be added together and the costs of their care combined and evaluated against the sum.

(g) (f) If the [patient] client from the nursing home without walls program does not utilize the entire funds available for the [patient’s] client’s care, “paper credits” shall be accrued on the [patient’s] client’s behalf to be utilized during a period of higher service requirements.

**SECTION 4. Determination of [patient] client eligibility for participation in the [demonstration project.] program.** (a) [Patients] Clients shall meet the following eligibility criteria:

- (1) They shall be certified by the department of social services and housing physicians to be in need of acute, skilled nursing, or intermediate level institutional care;

- (2) They shall be determined by the department of social services and housing to be eligible for Medicaid assistance; and
  - (3) They shall be deemed by their personal physician as able to be cared for at home with the provision of appropriate services in the home.
- (b) [Patients] Clients approved for the [demonstration project] program shall receive a:
- (1) Comprehensive assessment of their medical, social, and environmental needs;
  - (2) Written plan of care listing the types, frequency, and duration of all services which are necessary to maintain the [patient] client at home;
  - (3) Budget based on the services defined in the plan of care; and
  - (4) Periodic review of their status to assure continued medical and financial eligibility for service.

**SECTION 5. Provision of services.** (a) Services which shall assure the safety and well-being of the [patient] client shall be provided in the [patient's] client's home or in the home of a responsible relative or other adult.

(b) The [demonstration project] program shall provide the services in the most economic manner feasible[, either] which is compatible with preserving quality of care through:

- (1) Informal care providers, such as family members, friends, or neighbors who regularly provide specific services without [reimbursement] remuneration and not as a part of any organized volunteer activity;
- (2) Contracts with agency providers, such as certified home health agencies and public or private [nonprofit] health and social service agencies;
- (3) Contracts with individual providers, such as physicians, nurses, and therapists who privately enter into a contract to provide services for the [demonstration project;] program; or
- (4) [Project] Program personnel, such as social workers and nurses who are hired by the [demonstration project] program to provide specific services.

**SECTION 6. Annual report.** The director of social services shall report to the legislature at least twenty days prior to the convening of each regular session during the period of the [demonstration project.] program. The annual report shall include a comprehensive report on the status of the [demonstration project.] program and recommendations for amendments to the law and to the rules of the department pertaining to the [demonstration project.] program.

[SECTION 7. Waiver of requirements. The demonstration project shall not be subject to licensing or certification requirements of the department of health or the health planning and development agency.]

**SECTION [8.] 7. Rules.** The department of social services and housing shall adopt rules in accordance with chapter 91, Hawaii Revised Statutes, for the purpose of this Act.

**SECTION [9.] 8. Personnel exempt.** Personnel employed for the [demonstration project] program shall not be subject to the provisions of chapters 76 and 77, Hawaii Revised Statutes. The terms of service for these personnel shall begin on July 1, 1983, or as soon thereafter as deemed

## ACT 135

appropriate by the department of social services and housing, and shall not continue beyond June 30, [1987.] 1989.

SECTION [10.] 9. This Act shall take effect on July 1, 1983, and shall be repealed as of June 30, [1987.] 1989."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1987.)

## ACT 135

H.B. NO. 1935

A Bill for an Act Relating to Corporations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 415-2, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~415-2] **Definitions.** As used in this chapter, unless the context otherwise requires, the terms:

"Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto including articles of merger.

"Associate of an offeror" means (1) any corporation or other organization of which the offeror is an officer or partner, or is, directly or indirectly, the beneficial owner of ten per cent or more of any class of equity securities; (2) any person who is, directly or indirectly, the beneficial owner of ten per cent or more of any class of equity securities of the offeror; (3) any trust or other estate in which the offeror has a substantial beneficial interest or as to which the offeror serves as a trustee or in a similar fiduciary capacity; and (4) any relative or spouse of the offeror or any relative of such spouse, who has the same home as the offeror.]

"Authorized shares" means the shares of all classes which the corporation is authorized to issue.

"Commissioner" means the commissioner of securities as provided for in chapter 485.]

"Corporation" or "domestic corporation" means a corporation for profit subject to the provisions of this chapter, except a foreign corporation.

"Director" means the director of the department of commerce and consumer affairs.

"Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrance of indebtedness, by a corporation to or for the benefit of any of its shareholders in respect of any of its shares, whether by dividend or by purchase, redemption or other acquisition of its shares, or otherwise.

"Employee" includes officers but not directors. A director may accept duties which make the director also an employee.

"Equity security" means any shares of stock or similar securities or any securities convertible into such securities or carrying any warrant or right to subscribe to or purchase such securities or any such warrant or right.

"Exempt offer" means with respect to any class of equity securities of the offeree company (1) an isolated offer to purchase shares from individual stockholders and not made to stockholders generally, (2) an offer made by a

corporation to purchase (A) its own shares, or (B) shares of a subsidiary at least fifty-one per cent of the voting stock of which is directly or indirectly owned beneficially by the parent corporation, (3) an offer to acquire shares of a corporation with less than one hundred shareholders, and (4) an offer to acquire shares of a corporation with less than \$1,000,000 in assets.]

“Foreign corporation” means a corporation for profit organized under laws other than the laws of this State for a purpose or purposes for which a corporation may be organized under this chapter.

“Offeree” means a person to whom a take-over bid is made.

“Offeree company” means a corporation incorporated under the laws of this State and doing business in this State whose shares are the subject of a take-over bid and which is either (1) subject to regulation by the public utilities commission under chapter 269, 271, or 271G or (2) owns more than 1,000 acres of real property in any single county or (3) is subject to the inspection of the commissioner of financial institutions under chapter 401 or (4) owns directly or indirectly more than ten per cent of the voting stock of any of the foregoing.

“Offeror” means each person who makes or in any way participates in making a take-over bid and includes two or more persons (1) whose take-over bids are made jointly or in concert, or (2) who intend to exercise jointly or in concert any voting rights attaching to the shares for which a take-over bid is made. An “offeror” does not include any bank or broker-dealer loaning funds to an offeror in the ordinary course of its business or any broker-dealer, attorney, accountant consultant, employee, or other persons furnishing information or advice to or performing administrative or ministerial duties for an offeror and not otherwise participating in the take-over bid.

“Offeror’s presently owned shares or other units” means the aggregate number of shares or other units of an offeree company (1) beneficially owned, and (2) subject to a right of acquisition, directly or indirectly, on the date of a take-over bid, by (A) the offeror, and (B) each associate of the offeror.]

“Person” means an individual, a partnership, a corporation, a joint-stock company, an unincorporated organization, or trust.

“Principal office” means the office, within or without this State, where the principal executive office of a domestic or foreign corporation is located.

“Shareholder” means one who is a holder of record of shares in a corporation. If the articles of incorporation or the bylaws so provide, the board of directors may adopt by resolution a procedure whereby a shareholder of the corporation may certify in writing to the corporation that all or a portion of the shares registered in the name of [such] the shareholder are held for the account of a specified person or persons. The resolution shall set forth (1) the classification of shareholder who may certify, (2) the purpose or purposes for which the certification may be made, (3) the form of certification and information to be contained therein, (4) if the certification is with respect to a record date or closing of the stock transfer books within which the certification must be received by the corporation, and (5) such other provisions with respect to the procedures as are deemed necessary or desirable. Upon receipt by the corporation of a certification complying with the procedure, the persons specified in the certification shall be deemed, for the purpose or purposes set forth in the certification, to be the holders of record of the number of shares specified in place of the shareholder making the certification.

“Shares” means the units into which the proprietary interests in a corporation are divided.

## ACT 135

“Subscriber” means one who subscribes for shares in a corporation, whether before or after incorporation.

[“Take-over bid” means an offer, other than an exempt offer, made by an offeror directly or through an agent by advertisement or any other written or oral communication to offerees to purchase such number of shares or other units of any class of equity security of the offeree company that, together with the offeror’s presently owned shares or other units, will in the aggregate exceed ten per cent of the outstanding shares or other units of such class of equity security.]”

SECTION 2. Section 415-3, Hawaii Revised Statutes, is amended to read as follows:

“[§415-3]<sup>1</sup> **Purposes.** [Corporations may be organized under this chapter for any lawful purpose or purposes, other than for the purpose of carrying on any profession, except pursuant to part VIII of chapter 416.]<sup>1</sup> Every corporation incorporated under this chapter has the purpose of engaging in any lawful business, other than banking, insurance, or carrying on any profession, except pursuant to chapter 415A, unless a more limited purpose is set forth in the articles of incorporation.”

SECTION 3. Section 415-5, Hawaii Revised Statutes, is amended by amending subsections (a), (b), (c), (d), (e), (f), and (i) to read as follows:

“(a) As used in this section, unless the context otherwise requires:

[(1)] “Agent” means any person who is or was a director, officer, employee, or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, or was a director, officer, employee, or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of [such] the predecessor corporation.

[(2)] “Expenses” include, without limitation, attorney’s fees and any expenses of a completed action or proceeding, whether civil, criminal, administrative, or investigative.

(b) A corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation) [by reason of the fact that such] if that person is or was an agent of the corporation, against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with [such] the proceeding if [such] the person acted in good faith and in a manner [such] the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal proceeding, had no reasonable cause to believe the conduct of [such] the person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a<sup>1</sup> presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the corporation, or that the person had reasonable cause to believe that the person’s conduct was unlawful.

(c) A corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action by or in the right of the corporation to procure a judgment in its favor [by reason of the fact that such] because that person is

or was an agent of the corporation, against expenses actually and reasonably incurred by [such] the person in connection with the defense or settlement of [such] the action if [such] the person acted in good faith and in a manner [such] the person reasonably believed to be in or not opposed to the best interests of the corporation [and]; except that no indemnification shall be made in respect of any claim, issue, or matter as to which [such] the person shall have been adjudged to be liable for negligence or misconduct in the performance of [such] the person's duty to the corporation unless and only to the extent that the court in which [such] the action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, [such] the person is fairly and reasonably entitled to indemnity for such expenses [which such] as the court [shall deem] deems proper.

(d) To the extent that an agent has been successful on the merits or otherwise in [defense of] defending any claim;<sup>1</sup> issue, or matter therein, the agent shall be indemnified by the corporation against expenses actually and reasonably incurred by the agent in connection therewith.

(e) Any indemnification under subsection (b) or (c) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in subsection (b) or (c). [Such] The determination shall be made (1) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to [such] the proceeding[;], or (2) if [such] a quorum is not obtainable, [for] by independent legal counsel in a written opinion[;], or (3) by the shareholders[;], or (4) by the court in which [such] the proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not [such] the application by the agent, attorney, or other person is opposed by the corporation.

(f) Expenses incurred in defending any proceeding may be paid by the corporation in advance of the final disposition of [such] the proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall ultimately be determined that the agent is entitled to be indemnified by the corporation as authorized in this section.

(i) This section does not apply to any proceeding against any trustee, investment manager, or other fiduciary of an employee benefit plan in [such] that person's capacity, though [such] the person may also be an agent of the employer corporation as defined in subsection (a). Nothing contained in this section shall limit any right to indemnification to which [such] a trustee, investment manager, or other fiduciary may be entitled by contract or otherwise."

SECTION 4. Section 415-6, Hawaii Revised Statutes, is amended to read as follows:

**“[§415-6] Power of corporation to acquire its own shares.** A corporation shall have the power to acquire its own shares. All of its own shares acquired by a corporation shall, upon acquisition, constitute authorized but unissued shares, unless the articles of incorporation provide that they shall not be reissued, in which case the authorized shares shall be reduced by the number of shares acquired. If the number of authorized shares is reduced by an acquisition, the corporation shall, not later than the time it [files] delivers its next annual report to the director under this chapter, also [with the director] deliver to the director for filing [pursuant to section 415-55], a

## ACT 135

statement of cancellation showing the reduction in the authorized shares. The statement of cancellation shall set forth:

- (1) The name of the corporation;
- (2) The number of acquired shares canceled, itemized by classes and series; and
- (3) The aggregate number of authorized shares, itemized by classes and series, after giving effect to [such] the cancellation.”

SECTION 5. Section 415-7, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-7] Defense of ultra vires.** No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid [by reason of the fact that] because the corporation was without capacity or power to perform [such] the act or to make or receive [such] the conveyance or transfer, but such lack of capacity or power may be asserted:

- (1) In a proceeding by a shareholder against the corporation to enjoin the doing of any act or the transfer of real or personal property by or to the corporation. If the unauthorized act or transfer sought to be enjoined is being, or is to be, performed or made pursuant to a contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of [such] the contract, and in so doing may [allow] award to the corporation or to the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of [such] the contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.
- (2) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through shareholders in a representative suit, against the incumbent or former officers or directors of the corporation.”

SECTION 6. Section 415-8, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-8] Corporate name.** The corporate name:

- (1) Shall contain the word “corporation”, “incorporated”, or “limited”, or shall contain an abbreviation of one of the words[.]; and
- (2) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.
- (3) (2) Shall not be the same as, or [deceptively similar] substantially identical to, the name of any domestic [corporations, partnerships, or trade names] corporation or partnership existing [or registered] under the laws of this State, [or] any foreign corporation[,], or partnership[, or trade name] authorized to transact business in this State, any [or] trade name registered in this State, or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter, or the name of a corporation which has in effect a registration of its corporate name as provided in this chapter, except that this provision shall



not apply if the applicant files with the director either of the following:

- (A) The written consent of [such] the other corporation or holder of a reserved or registered name to use the same or [deceptively similar] substantially identical name, and one or more words are added to make [such] the name distinguishable from [such] the other name, or
- (B) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of [such] the name in this State.”

SECTION 7. Section 415-9, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-9] Reserved name.** The exclusive right to [the] use [of] the corporate name may be reserved by:

- (1) Any person intending to organize a corporation under this chapter[.];
- (2) Any domestic corporation intending to change its name[.];
- (3) Any foreign corporation intending to make application for a certificate of authority to transact business in this State[.];
- (4) Any foreign corporation authorized to transact business in this State and intending to change its name[.]; or
- (5) Any person intending to organize a foreign corporation and intending to have [such] the corporation make application for a certificate of authority to transact business in this State.

The reservation shall be made by [filing with] delivering to the director an application to reserve a specified corporate name, executed by the applicant. If the director finds that the name is available for corporate use, the director shall reserve the same for the exclusive use of the applicant for [a period of] one hundred twenty days.

The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by [filing in the office of] delivering to the director a notice of [such] the transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.”

SECTION 8. Section 415-14, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-14] Service of process on corporation.** Service of any notice or process authorized by law issued against any corporation, whether domestic or foreign, by any court, judicial[, ] or administrative officer, or board, may be made in the manner provided by law upon any registered agent, officer, or director of the corporation who is found within the jurisdiction of the court, officer, or board; [and in default of finding] or if any registered agent, officer, or director[, ] cannot be found, upon the manager or superintendent of the corporation or any person who is found in charge of the property, business, or office of the corporation within the jurisdiction.

If no [registered agent,] officer, director, manager, superintendent, or other person in charge of the property, business, or office of the corporation can be found within the State[.]; and in case the corporation, if a foreign corporation, has not filed with the director pursuant to sections 415-113 and 415-114, the name of a person upon whom legal notice and process from the courts of the State may be served[.]; and likewise if the person so named is not found within the State, service may be made upon the corporation by [filing with] delivering to the director, or in the director’s absence, [with] to

## ACT 135

the deputy director, a copy of the notice[,] or process, certified to be such under the seal of any court of record, or by the chairman, or president of the board, or by the officer issuing the same. The director or deputy director so served shall [immediately] notify the defendant corporation of the service, as soon as practicable but not more than thirty days after receipt of the notice or process, by certified mail at the corporation's address as last recorded in the business registration division. The filing shall [be deemed] constitute service upon the corporation forty-five days after the filing, and shall authorize the court, board, or officer to proceed in all respects as in the case of service personally made upon an individual.

The director shall keep a record of all processes, notices, and demands served upon the director under this section, and shall record therein the time of [such] the service and the action with reference thereto.

Nothing [herein] contained herein shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a corporation in any other manner [now or hereafter] permitted by law."

SECTION 9. Section 415-15, Hawaii Revised Statutes, is amended to read as follows:

**"[§415-15] Authorized shares.** Each corporation shall have the power to create and issue the number of shares stated in its articles of incorporation. [Such] The shares may be divided into one or more classes, with such designations, preferences, limitations, and relative rights as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny the voting rights of or provide special voting rights for the shares of any class to the extent not inconsistent with the provisions of this chapter.

Without limiting the authority [herein] contained[,], herein, a corporation, when so provided in its articles of incorporation, may issue shares of preferred or special classes:

- (1) Subject to the right of the corporation to redeem any of [such] the shares at the price fixed by the articles of incorporation for the redemption thereof[.];
- (2) Entitling the holders thereof to cumulative, noncumulative, or partially cumulative dividends[.];
- (3) Having preference over any other class or classes of shares as to the payment of dividends[.];
- (4) Having preference in the assets of the corporation over any other class or classes of shares upon the voluntary or involuntary liquidation of the corporation[.]; or
- (5) Convertible into shares of any other class or into shares of any series of the same or any other class, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation."

SECTION 10. Section 415-16, Hawaii Revised Statutes, is amended to read as follows:

**"[§415-16] Issuance of shares of preferred or special classes in series.** (a) If the articles of incorporation so provide, the shares of any preferred or special class may be divided into and issued in series. If the shares of any such class are to be issued in series, then each series shall be so designated as to distinguish the shares thereof from the shares of all other series and classes. Any or all of the series of any such class and the variations in the relative rights and preferences as between different series may be fixed

and determined by the articles of incorporation, but all shares of the same class shall be identical except as to the following relative rights and preferences, as to which there may be variations between different series:

- (1) The rate of dividend[.];
- (2) Whether shares may be redeemed and, if so, the redemption price and the terms and conditions of redemption[.];
- (3) The amount payable upon shares in event of voluntary and involuntary liquidation[.];
- (4) Sinking fund provisions, if any, for the redemption or purchase of shares[.];
- (5) The terms and conditions, if any, on which shares may be converted[.]; and
- (6) Voting rights, if any.

(b) If the articles of incorporation shall expressly vest authority in the board of directors, then, to the extent that the articles of incorporation shall not have established series and fixed and determined the variations in the relative rights and preferences as between series, the board of directors shall have authority to divide any or all of [such] the classes into series and, within the limitations set forth in this section and in the articles of incorporation, fix and determine the relative rights and preferences of the shares of any series<sup>1</sup> established.

(c) In order for the board of directors to establish a series, where authority [so] to do so is contained in the articles of incorporation, the board of directors shall adopt a resolution setting forth the designation of the series and fixing and determining the relative rights and preferences thereof, or so much thereof as shall not be fixed and determined by the articles of incorporation.

(d) Prior to the issue of any shares of a series established by resolution adopted by the board of directors, the corporation shall deliver to the director for filing [pursuant to section 415-55], a statement setting forth:

- (1) The name of the corporation;
- (2) A copy of the resolution establishing and designating the series, and fixing and determining the relative rights and preferences thereof;
- (3) The date of adoption of [such] the resolution; and
- (4) That [such] the resolution was duly adopted by the board of directors.

(e) Upon the filing of [a] the statement by the director [pursuant to section 415-55], the resolution establishing and designating the series and fixing and determining the relative rights and preferences thereof shall constitute an amendment of the articles of incorporation.”

SECTION 11. Section 415-17, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§415-17]]~~ **Subscriptions for shares.** A subscription for shares of a corporation to be organized shall be irrevocable for a period of six months, unless otherwise provided by the terms of the subscription agreement or unless all of the subscribers consent to the revocation of [such] the subscription.

Unless otherwise provided in the subscription agreement, subscriptions for shares, whether made before or after the organization of a corporation, shall be paid in full at such times,<sup>1</sup> or in such installments and at such times, as shall be determined by the board of directors. Any call made by the board of directors for payment on subscriptions shall be uniform as to all shares of the same class or as to all shares of the same series, as the case may

## ACT 135

be. In case of default in the payment of any installment or call when such payment is due, the corporation may proceed to collect the amount due in the same manner as any debt due the corporation. The bylaws may prescribe other penalties for failure to pay installments or calls that may become due, but no penalty working a forfeiture of a subscription, or of the amounts paid thereon, shall be declared as against any subscriber unless the amount due thereon shall remain unpaid for a period of twenty days after written demand has been made therefore. If mailed, [such] the written demand shall be deemed [to be] made when deposited in the United States mail in a sealed envelope addressed to the subscriber at the subscriber's last post-office address known to the corporation, with postage thereon prepaid. In the event of the sale of any shares by reason of any forfeiture, the excess of proceeds realized over the amount due and unpaid on [such] the shares shall be paid to the delinquent subscriber or to the delinquent subscriber's legal representative."

SECTION 12. Section 415-22, Hawaii Revised Statutes, is amended to read as follows:

**"[§415-22] Expenses of organization, reorganization, and financing.** The reasonable charges and expenses of organization or reorganization of a corporation, and the reasonable expenses of and compensation for the sale or underwriting of its shares, may be paid or allowed by [such] the corporation out of the consideration received by it in payment for its shares without thereby rendering [such] the shares assessable."

SECTION 13. Section 415-23, Hawaii Revised Statutes, is amended to read as follows:

**"[§415-23] Shares represented by certificates and uncertificated shares.** The shares of a corporation shall be represented by certificates or shall be uncertificated shares. Certificates shall be signed by the chairman or vice chairman of the board of directors or the president or a vice president, and by the treasurer or an assistant treasurer, or the secretary or an assistant secretary of the corporation, and may be sealed with the seal of the corporation or a facsimile thereof. Any [of] or all of the signatures upon a certificate may be a facsimile. In case any [such] officer, transfer agent, or registrar who has signed or whose facsimile signature has been placed upon [such] the certificate [shall have] has ceased to be [such] an officer, transfer agent or registrar before [such] the certificate is issued, it may be issued by the corporation with the same effect as if the officer, transfer agent or registrar were [such] an officer, transfer agent, or registrar at the date of its issue.

Every certificate representing shares issued by a corporation which is authorized to issue shares of more than one class shall set forth upon the face or back of the certificate, or shall state that the corporation will furnish to any shareholder upon request and without charge, a full statement of the designations, preferences, limitations, and relative rights of the shares of each class authorized to be issued, and if the corporation is authorized to issue any preferred or special class in series, the variations in the relative rights and preferences between the shares of each such series so far as the same have been fixed and determined and the authority of the board of directors to fix and determine the relative rights and preferences of subsequent series.

Each certificate representing shares shall state upon the face thereof:

- (1) That the corporation is organized under the laws of this State[.];
- (2) The name of the person to whom the certificate is issued[.];

- (3) The number and class of shares, and the designation of the series, if any, which [such] the certificate represents[.]; and
- (4) The par value of each share represented by [such] the certificate, or a statement that the shares are without par value.

No certificate shall be issued for any share until the consideration established for its issuance [shall have] has been paid.

Unless otherwise provided by the articles of incorporation [or by-laws], the board of directors of a corporation may provide by resolution that some or all of any of all classes and series of its shares shall be uncertificated shares; provided that [such] the resolution shall not apply to shares represented by a certificate until [such] the certificate is surrendered to the corporation. Within a reasonable time after the issuance or transfer of uncertificated shares, the corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to [the second and third] paragraphs (2) and (3) of this section. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of certificates representing shares of the same class and series shall be identical.”

SECTION 14. Section 415-25, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-25] Liability of subscribers and shareholders.** A holder of or subscriber to shares of a corporation shall be under no obligation to the corporation or its creditors with respect to [such] the shares other than the obligation to pay to the corporation the full consideration for which [such] the shares were issued or are to be issued.

Any person becoming an assignee or transferee of shares or of a subscription for shares in good faith and without knowledge or notice that the full consideration therefore has not been paid shall not be personally liable to the corporation or its creditors for any unpaid portion of [such] the consideration.

A personal representative, trustee, assignee for the benefit of creditors, or receiver shall not be personally liable to the corporation as a holder of or subscriber to shares of a corporation but the estate and funds in his hands shall be so liable.

No pledgee or other holder of shares as collateral security shall be personally liable as a shareholder.”

SECTION 15. Section 415-29, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-29] Notice of [shareholders] shareholders’ meetings.** Written notice stating the place, day, and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at [such] the meeting. If mailed, [such] the notice shall be deemed to be delivered when deposited in the United States mail addressed to the shareholder at the shareholder’s address as it appears on the stock transfer books of the corporation, with postage thereon prepaid.”

SECTION 16. Section 415-30, Hawaii Revised Statutes, is amended to read as follows:

## ACT 135

**“[[§415-30]] Closing of transfer books and fixing record date.** For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the board of directors of a corporation may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, fifty days. If the stock transfer books shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, [such] the books shall be closed for at least ten days immediately preceding [such] the meeting. In lieu of closing the stock transfer books, the bylaws, or in the absence of an applicable bylaw, the board of directors may fix in advance a date as the record date for any such determination of shareholders, [such] the date in any case to be not more than fifty days and, in case of a meeting of shareholders, not less than ten days prior to the date on which the particular action, requiring [such] the determination of shareholders, is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring [such] the dividend is adopted, as the case may be, shall be the record date for [such] the determination of shareholders. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof.”

SECTION 17. Section 415-31, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415-31]] Voting record.** The officer or agent having charge of the stock transfer books for shares of a corporation shall make a complete record of the shareholders entitled to vote at [such] the meeting or any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares held by each[. Such] shareholder. The record shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting for the purposes thereof.

Failure to comply with the requirements of this section shall not affect the validity of any action taken at [such] the meeting.

An officer or agent having charge of the stock transfer books who shall fail to prepare the record of shareholders, or produce and keep it open for inspection at the meeting, as provided in this section, shall be liable to any shareholder suffering damage on account of such failure, to the extent of such damage.”

SECTION 18. Section 415-33, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415-33]] Voting of shares.** Each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except as may be otherwise provided in the articles of incorporation. If the articles of incorporation provide for more or less than one vote for any share[, ] on any matter, every reference in this chapter to a majority or other proportion of shares shall refer to such a majority or other proportion of votes entitled to be cast.

Shares held by another corporation, if a majority of the shares entitled to vote for the election of directors of [such] the other corporation is

held by the corporation, shall not be voted at any meeting or counted in determining the total number of outstanding shares at any given time.

A shareholder may vote either in person or by proxy executed in writing by the shareholder or by a duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

If, not less than forty-eight hours prior to the time fixed for any annual or special meeting, any shareholder or shareholders delivers to any officer of the corporation, a request that the election of directors to be elected at the meeting be by cumulative voting, then the directors to be elected at the meeting shall be chosen as follows: each shareholder present in person or represented by proxy at the meeting shall have a number of votes equal to the number of shares of capital stock owned by the shareholder multiplied by the number of directors to be elected at the meeting; each shareholder shall be entitled to cumulate the votes of said shareholder and give all thereof to one nominee or to distribute the votes of said shareholder in such manner as the shareholder determines among any or all of the nominees; and the nominees receiving the highest number of votes on the foregoing basis, up to the total number of directors to be elected at the meeting, shall be the successful nominees. The right to have directors elected by cumulative voting as aforesaid shall exist notwithstanding that provision therefore is not included in the articles of incorporation or bylaws, and this right shall not be restricted or qualified by any provisions of the articles of incorporation or bylaws; provided that this right may be restricted, qualified, or eliminated by a provision of the articles of incorporation or bylaws of any corporation having a<sup>1</sup> class of equity securities registered pursuant to the Securities Exchange Act of 1934, as amended, which are either listed on a national securities exchange or traded over-the-counter on the National Market of the National Association of Securities Dealers, Inc. Automated Quotation System. This section shall not prevent the filling of vacancies in the board of directors, which vacancies may be filled in such manner as may be provided in the articles of incorporation or bylaws.

Shares standing in the name of another corporation, domestic or foreign, may be voted by such officer, agent, or proxy as the bylaws of [such] the other corporation may prescribe, or, in the absence of [such] any provision, as the board of directors of [such] the other corporation may determine.

Shares held by a personal representative may be voted by that individual, either in person or by proxy, without a transfer of [such] the shares into that individual's name. Shares standing in the name of a trustee may be voted by the trustee, either in person or by proxy, but no trustee shall be entitled to vote shares held without a transfer of [such] the shares into [said] the trustee's name.

Shares standing in the name of a receiver may be voted by [such] the receiver, and shares held by or under the control of a receiver may be voted by [such] the receiver without the transfer thereof into the receiver's name if authority [so] to do so is contained in an appropriate order of the court by which [such] the receiver was appointed.

A shareholder whose shares are pledged shall be entitled to vote [such] the shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

On and after the date on which written notice of redemption of redeemable shares has been mailed to the holders thereof and a sum sufficient to redeem [such] the shares has been deposited with a bank or trust

## ACT 135

company with irrevocable instruction and authority to pay the redemption price to the holders thereof upon surrender of certificates therefore, [such] the shares shall not be entitled to vote on any matter and [shall] are not [be] deemed to be outstanding shares."

SECTION 19. Section 415-34, Hawaii Revised Statutes, is amended to read as follows:

**“[§415-34] Voting trusts and agreements among shareholders.** Any number of shareholders of a corporation may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period of not to exceed ten years, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by depositing a counterpart of the agreement with the corporation at its registered office, and by transferring their shares to [such] the trustee or trustees for the purposes of the agreement. [Such] The trustee or trustees shall keep a record of the holders of voting trust certificates evidencing a beneficial interest in the voting trust, giving the names and addresses of all [such] of the holders and the number and class of the shares in respect of which the voting trust certificates held by each are issued, and shall deposit a copy of [such] the record with the corporation at its registered office. The counterpart of the voting trust agreement and the copy of [such] the record so deposited with the corporation shall be subject to the same right of examination by a shareholder of the corporation, in person or by agent or attorney, as are the books and records of the corporation, and [such] the counterpart and [such] the copy of [such] the record shall be subject to examination by any holder of record of voting trust certificates, either in person or by agent or attorney, at any reasonable time for any proper purpose.

Agreements among shareholders regarding the voting of their shares shall be valid and enforceable in accordance with their terms. Such agreements shall not be subject to the provisions of this section regarding voting trusts.”

SECTION 20. Section 415-35, Hawaii Revised Statutes, is amended to read as follows:

**“[§415-35] Board of directors.** All corporate powers shall be exercised by or under authority of, and the business and affairs of a corporation shall be managed under the direction of, a board of directors except as may be otherwise provided in this chapter or the articles of incorporation. If any such provision is made in the articles of incorporation, the powers and duties conferred or imposed upon the board of directors by this chapter shall be exercised or performed to such extent and by such person or persons as shall be provided in the articles of incorporation. At least one member of every board of directors shall be a resident of this State. If there is no such director who is a member of the board, the board may not function except to elect a new director who is a resident of this State. Directors need not be shareholders of the corporation unless the articles of incorporation or bylaws so require. The articles of incorporation or bylaws may prescribe other qualifications for directors. The board of directors shall have authority to fix the compensation of directors unless otherwise provided in the articles of incorporation.

A director shall perform the director's duties as a director, including the director's duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner the director reasonably believes to be in the best interests of the corporation, and with such care as



an ordinarily prudent person in a like position would use under similar circumstances. In performing the director's duties, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

- (1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;
- (2) Counsel, public accountants, or other persons as to matters which the director reasonably believes to be within such person's professional or expert competence; or
- (3) A committee of the board upon which the director does not serve, duly designated in accordance with a provision of the articles of incorporation or the bylaws, as to matters within its designated authority, which committee the director reasonably believes to merit confidence,

provided that the director shall not be considered to be acting in good faith if the director has or should have knowledge concerning the matter in question that would cause such reliance to be unwarranted. A [person] director who so performs the [person's] director's duties shall have no liability by reason of being or having been a director of the corporation.

A director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless the director's dissent shall be entered in the minutes of the meeting or unless the director shall file the director's written dissent to [such] the action with the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. [Such] The right to dissent shall not apply to a director who voted in favor of [such] the action."

SECTION 21. Section 415-36, Hawaii Revised Statutes, is amended to read as follows:

**"[§415-36] Number and election of directors.** [The directors of every corporation shall be one or more in number, if] If the corporation has only one shareholder[.], the corporation shall have one or more directors. If the corporation has two shareholders, the corporation shall have two or more directors. If the corporation has three or more shareholders, the corporation shall have three or more directors. The number of directors shall be fixed by, or in the manner provided in, the articles of incorporation or the bylaws, except as to the number constituting the initial board of directors, which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to, or in the manner provided in, the articles of incorporation or the bylaws, but no decrease shall have the effect of shortening the term of any incumbent director. In the absence of a bylaw providing for the number of directors, the number shall be the same as that provided for in the articles of incorporation. The names and addresses of the members of the first board of directors shall be stated in the articles of incorporation. Such persons shall hold office until the first annual meeting of shareholders, and until their successors shall have been elected and qualified. At the first annual meeting of shareholders and at each annual meeting thereafter the shareholders shall elect directors to hold office until the next succeeding annual meeting, except in case of the classification of directors as permitted by this chapter. Each director shall

## ACT 135

hold office for the term for which the director is elected and until the director's successor shall have been elected and qualified."

SECTION 22. Section 415-37, Hawaii Revised Statutes, is amended to read as follows:

"~~[[~~**§415-37**~~]]~~ **Classification of directors.** When the board of directors shall consist of nine or more members, in lieu of electing the whole number of directors annually, the articles of incorporation may provide that the directors be divided into either two or three classes, each class to be as nearly equal in number as possible, the term of office of directors of the first class to expire at the first annual meeting of shareholders after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification, the number of directors equal to the number of the class whose term expires at the time of [such] the meeting shall be elected to hold office until the second succeeding annual meeting, if there are two classes, or until the third succeeding annual meeting, if there are three classes. No classification of directors shall be effective prior to the first annual meeting of shareholders."

SECTION 23. Section 415-39, Hawaii Revised Statutes, is amended to read as follows:

"~~[[~~**§415-39**~~]]~~ **[Removal] Resignation and removal of directors.** (a) A director may resign at any time by delivering written notice to the board of directors, its chairperson, or to the corporation. A resignation is effective when the notice is delivered unless the notice specifies a later effective date.

(b) At a meeting of shareholders called expressly for that purpose, directors may be removed in the manner provided for in this section. Any director or the entire board of directors may be removed, with or without cause, by a vote of the holders of a majority of the shares then entitled to vote at an election of directors.

In the case of a corporation having cumulative voting, if less than the entire board is to be removed, no one of the directors may be removed if the votes cast against the director's removal would be sufficient to elect the director if then cumulatively voted at an election of the entire board of directors, or, if there are classes of directors, at an election of the class of directors of which the director is a part.

Whenever the holders of the shares of any class are entitled to elect one or more directors by the provisions of the articles of incorporation, the provisions of this section shall apply, in respect to the removal of a director or directors so elected, to the vote of the holders of the outstanding shares of that class and not to the vote of the outstanding shares as a whole."

SECTION 24. Section 415-41, Hawaii Revised Statutes, is amended to read as follows:

"~~[[~~**§415-41**~~]]~~ **Director conflicts of interest.** No contract or other transaction between a corporation and one or more of its directors or any other corporation, firm, association, or entity in which one or more of its directors are directors or officers or are financially interested, shall be either void or voidable because of [such] this relationship or interest or because [such] the director or directors are present at the meeting of the board of directors or a committee thereof which authorizes, approves, or ratifies [such] the contract or transaction or because [his or their] the votes of the interested director or directors are counted for [such] that purpose, if:

- (1) The fact of [such] the relationship or interest is disclosed or known to the board of directors or committee which authorizes, approves, or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of [such] the interested director or directors; or
- (2) The fact of [such] the relationship or interest is disclosed or known to the shareholders entitled to vote and they authorize, approve, or ratify [such] the contract or transaction by vote or written consent; or
- (3) The contract or transaction is fair and reasonable to the corporation.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or a committee thereof which authorizes, approves, or ratifies [such] the contract or transaction."

SECTION 25. Section 415-42, Hawaii Revised Statutes, is amended to read as follows:

"**[§415-42]** **Executive and other committees.** If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the full board of directors, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in [such] the resolution or in the articles of incorporation or the bylaws of the corporation, shall have and may exercise all the authority of the board of directors, except that no such committee shall have authority to:

- (1) Authorize distributions;
- (2) Approve or recommend to shareholders actions or proposals required by this chapter to be approved by shareholders;
- (3) Designate candidates for the office of director, for purposes of proxy solicitation or otherwise, or fill vacancies on the board of directors or any committee thereof;
- (4) Amend the bylaws;
- (5) Approve a plan of merger not requiring shareholder approval;
- (6) Authorize or approve the reacquisition of shares unless pursuant to a general formula or method specified by the board of directors; or
- (7) Authorize or approve the issuance or sale of, or any contract to issue or sell, shares or designate the terms of a series of class of shares;

provided that the board of directors having acted regarding general authorization for the issuance or sale of shares, or any contract therefore, and, in the case of a series, the designation thereof, may, pursuant to a general formula or method specified by the board by resolution or by adoption of a stock option or other plan, authorize a committee to fix the terms of any contract for the sale of the shares and to fix the terms upon which [such] the shares may be issued or sold, including, without limitation, the price, the dividend rate, provisions for redemption, sinking fund, conversion, voting or preferential rights, and provisions for other features of a class of shares, or a series of a class of shares, with full power in [such] the committee to adopt any final resolution setting forth all of the terms thereof and to authorize the statement of the terms of a series [for filing with] to be delivered to the director for filing under this chapter.

Neither the designation of [any such] the committee, the delegation thereto of authority, nor action by [such] the committee pursuant to such

## ACT 135

authority shall alone constitute compliance by any member of the board of directors, not a member of the committee in question, with [his] the member's responsibility to act in good faith, in a manner [he] the member reasonably believes to be in the best interests of the corporation, and with such care as an ordinarily prudent person in a like position would use under similar circumstances.”

SECTION 26. Section 415-43, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-43]** **Place and notice of directors' meetings; committee meetings.** Meetings of the board of directors, regular or special, may be held either within or without this State.

Regular meetings of the board of directors or any committee designated thereby may be held with or without notice as prescribed in the bylaws. Special meetings of the board of directors or any committee designated thereby shall be held upon such notice as is prescribed in the bylaws. Attendance of a director at a meeting shall constitute a waiver of notice of [such] the meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors or any committee designated thereby need be specified in the notice or waiver of notice of [such] the meeting unless required by the bylaws.

Except as may be otherwise restricted by the articles of incorporation or bylaws, members of the board of directors or any committee designated thereby may participate in a meeting of [such] the board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.”

SECTION 27. Section 415-44, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-44]** **Action by directors without a meeting.** Unless otherwise provided by the articles of incorporation or bylaws, any action required or permitted to be taken at any meeting of the directors may be taken without a meeting if all of the directors or of a committee of the directors or all of the members of the committee, as the case may be, sign a written consent setting forth the action taken or to be taken at any time before or after the intended effective date of [such] the action. [Such] The consent shall be filed with the minutes of the directors' meetings or committee meetings, as the case may be, and shall have the same effect as a unanimous vote.”

SECTION 28. Section 415-45, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-45]** **Distributions to shareholders.** Subject to any restrictions in the articles of incorporation, the board of directors may authorize and the corporation may make distributions, except that no distribution may be made if, after giving effect thereto, either:

- (1) The corporation would be unable to pay its debts as they become due in the usual course of its business; or

- (2) The corporation's total assets would be less than the sum of its total liabilities and [(1), unless the articles of incorporation otherwise permit)], the maximum amount that then would be payable, in any liquidation, in respect of all outstanding shares having preferential rights in liquidation.

Determinations under paragraph (2) may be based upon (A) financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances, or (B) a fair valuation or other method that is reasonable in the circumstances.

In the case of a purchase, redemption, or other acquisition of a corporation's shares, the effect of a distribution shall be measured as of the date[,] money or other property is transferred or debt is incurred by the corporation, or as of the date the shareholder ceases to be a shareholder of the corporation with respect to [such] the shares, whichever is earlier. In all other cases, the effect of a distribution shall be measured as of the date of its authorization if payment occurs one hundred twenty days or less following the date of authorization, or as of the date of payment if payment occurs more than one hundred twenty days following the date of authorization.

Indebtedness of a corporation incurred or issued to a shareholder in a distribution in accordance with this section shall be on a parity with the indebtedness of the corporation to its general unsecured creditors except to the extent subordinated by agreement."

SECTION 29. Section 415-48, Hawaii Revised Statutes, is amended to read as follows:

"**[[§415-48]] Liabilities of directors in certain cases.** In addition to any other liabilities, a director who votes for or assents to any distribution contrary to the provisions of this chapter, or contrary to any restrictions contained in the articles of incorporation, shall, unless the director complied with the standard provided for in this chapter for the performance of the duties of directors, be liable to the corporation, jointly and severally with all other directors so voting or assenting, for the amount of such dividend which is paid or the value of [such] the distribution in excess of the amount of [such] the distribution which could have been made without a violation of the provisions of this chapter or the restrictions in the articles of incorporation.

Any director against whom a claim shall be asserted under or pursuant to this section for the making of a distribution and who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such distribution, knowing [such] the distribution to have been made in violation of this chapter, in proportion to the amounts received by them.

Any director against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from any other directors who voted for or assented to the action upon which the claim is asserted and who did not comply with the standard provided for in this chapter for the performance of duties of directors. Nothing in this chapter shall [be deemed to] prohibit the distribution of assets to shareholders permitted or authorized by the Federal Housing Commissioner by any corporation organized for the purpose of providing housing for rent pursuant to regulations of the Federal Housing Commissioner under the provisions of Title VIII of the National Housing Act, as amended, where the principal assets of the corporation consist of real property belonging to the United States and leased to the corporation pursuant to Title VIII of the National Housing Act as amended or supplemented from time to time."

## ACT 135

SECTION 30. Section 415-49, Hawaii Revised Statutes, is amended to read as follows:

**“[§415-49] Provisions relating to actions by shareholders.** No action shall be brought in this State by a shareholder in the right of a domestic or foreign corporation unless the plaintiff was a holder of record of shares or of voting trust certificates therefore at the time of the transaction of which the plaintiff complains, or the plaintiff's shares or voting trust certificates thereafter devolved upon the plaintiff by operation of law from a person who was a holder of record at [such] that time.

In any action hereafter instituted in the right of any domestic or foreign corporation by the holder or holders of record of shares of [such] the corporation or of voting trust certificates therefore, the court having jurisdiction, upon final judgment and a finding that the action was brought without reasonable cause, may require the plaintiff or plaintiffs to pay to the parties named as defendant the reasonable expenses, including fees of attorneys, incurred by them in the defense of [such] the action.

In any action now pending or hereafter instituted or maintained in the right of any domestic or foreign corporation by the holder or holders of record of less than five per cent of the outstanding shares of any class of [such] the corporation or of voting trust certificates therefore, unless the shares or voting trust certificates so held have a market value in excess of \$25,000, the corporation in whose right [such] the action is brought shall be entitled at any time before final judgment to require the plaintiff or plaintiffs to give security for the reasonable expenses, including fees of attorneys, that may be incurred by it in connection with [such] the action or may be incurred by other parties named as defendant for which it may become legally liable. Market value shall be determined as of the date that the plaintiff institutes the action or, in the case of an intervenor, as of the date that the intervenor becomes a party to the action. The amount of [such] the security may from time to time be increased or decreased, in the discretion of the court, upon showing that the security provided has or may become inadequate or is excessive. The corporation shall have recourse to [such] the security in such amount as the court having jurisdiction shall determine upon the termination of [such] the action, whether or not the court finds the action was brought without reasonable cause.”

SECTION 31. Section 415-50, Hawaii Revised Statutes, is amended to read as follows:

**“[§415-50] Officers.** The officers of a corporation shall consist of a president, one or more vice-presidents as may be prescribed by the bylaws, a secretary, and a treasurer, each of whom shall be elected or appointed by the board of directors at such time and in such manner as may be prescribed by the bylaws. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws. Any two or more offices may be held by the same [person;] individual; provided that every corporation shall have not less than two [persons] individuals as officers.

All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws.”

SECTION 32. Section 415-52, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[§415-52]]]~~ **Books and records.** Each corporation shall keep accurate and complete books and records of account and shall keep and maintain at its principal [offices,] office, or such other place as its board of directors may order, minutes of the proceedings of its shareholders and board of directors. The books and records of account shall include accounts of the corporation’s assets, liabilities, receipts, disbursements, gains, and losses. The minutes of the proceedings of the shareholders and board of directors of the corporation shall show, as to each meeting of the shareholders or the board of directors, the time and place thereof, whether regular or special, whether notice thereof was given, and if so in what manner, the names of those present at directors’ meetings, the number of shares present or represented at shareholders’ meetings, and the proceedings at each meeting.

In every corporation incorporated under this chapter, the board of directors of the corporation[,] shall cause a book to be kept for registering the names of all persons who are or shall become shareholders of the corporation, showing the number of shares of stock held by them respectively, and the time when they respectively [become] became the owner of the shares. The book shall be [opened] open at all reasonable times for the inspection of the shareholders. The secretary or the person having the charge thereof shall give a certified transcript of anything therein contained to any shareholder applying therefor provided that the shareholder pays a reasonable charge for the preparation of the certified transcript. The transcript shall be legal evidence of the facts therein set forth in any suit by or against the corporation.”

SECTION 33. Section 415-53, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[§415-53]]]~~ **Incorporators.** One or more [persons, or a domestic or foreign corporation,] individuals may act as incorporator or incorporators of a corporation by signing and delivering to the director for filing articles of incorporation for [such] the corporation.”

SECTION 34. Section 415-54, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The articles of incorporation shall be delivered to and filed by the director [pursuant to section 415-55] and shall set forth:

- (1) The name of the corporation[.];
- (2) The period of duration, which may be perpetual[.];
- (3) The primary specific purpose, and such other purposes for which the corporation is organized which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this chapter[.];
- (4) The aggregate number of shares which the corporation shall have authority to issue, and, if [such] the shares are to be divided into classes, the number of shares of each class[.];
- (5) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations, and relative rights in respect of the shares of each class[.];
- (6) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of

incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series[.];

- (7) If any preemptive right is to be granted to shareholders, the provisions therefor[.];
- (8) The [street] mailing address of its initial [registered] or principal office; provided that where no specific street address is available, the rural route post office number or post office box designated or made available by the United States Postal Service[; and the name of its initial registered agent at such address.];
- (9) The number of directors constituting the initial board of directors and the names and residence addresses of the [persons] individuals who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and [qualify] qualified; provided that where no specific street address is available, the rural route post office number or post office box designated or made available by the United States Postal Service[.];
- (10) The name, title,<sup>1</sup> and residence address of each [incorporator] officer; provided that where no specific [residence] street address is available, the rural route post office number or post office box designated or made available by the United States Postal Service[.];
- (11) The names of the initial subscribers for shares of each class and the number of shares subscribed for[.];
- (12) The subscription price or prices for shares of each class subscribed for by each initial subscriber, and if it is to be paid in other than cash, the consideration in which it is to be paid[.]; and
- (13) The amount of capital and paid-in surplus, if any, paid in by each initial subscriber, separately stating the amount paid in cash and in property.”

SECTION 35. Section 415-55, Hawaii Revised Statutes is amended to read as follows:

“~~[[[§415-55]]]~~ **Filing of documents and effective date.** (a) Any document required to be delivered to the director for filing pursuant to this chapter shall be:

- (1) [Executed] Certified and executed by:
    - (A) [A person] An individual intending to organize a corporation or an incorporator, if the corporation has not been organized; or
    - (B) Two [persons] individuals who are officers of the corporation, if the corporation has been organized; or
    - (C) A majority of incorporators with respect to articles of dissolution delivered pursuant to section 415-82[.]; or
  - (D) Any person or persons as the court shall designate or appoint in a reorganization or bankruptcy proceeding or other court proceeding; and<sup>1</sup>
  - (2) Delivered to the director.
- (b) If the director finds [such] the document sets forth the information required by this chapter, the director shall:
- (1) [Endorse] Stamp the word “Filed” and the [hour, minute, month, day, and year] date of the delivery thereof, and
  - (2) File the document in the director’s office.



(c) The director, however, shall not file a document required by this chapter unless all fees prescribed by this chapter have been paid with respect to [such] the document.

(d) Upon the filing of a document, the document shall become effective as of delivery. Articles of dissolution and amendments to articles of incorporation in a reorganization proceeding may become effective at a [or at such] later date, and articles of merger or consolidation may become effective at a later time and date, as set forth in the instrument, but not more than thirty days after being filed.

[(e) Any person knowingly making a false statement in any document to be filed with the director shall be deemed to be guilty of a violation.]”

SECTION 36. Section 415-56, Hawaii Revised Statutes, is amended to read as follows:

“**[[§415-56]] Effect of issuance of articles of incorporation.** Upon the effective [time and] date of the articles of incorporation, the corporate existence shall begin, and [such] the articles of incorporation shall be prima facie evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this chapter, except as against this State in a proceeding to cancel or revoke the articles of incorporation or for involuntary dissolution of the corporation.”

SECTION 37. Section 415-57, Hawaii Revised Statutes, is amended to read as follows:

“**[[§415-57] [Organization] Organizational meeting of directors.** After the effective [time and] date of the articles of incorporation, an [organization] organizational meeting of the board of directors named in the articles of incorporation shall be held, either within or without this State, at the call of a majority of the directors named in the articles of incorporation for the purpose of adopting bylaws, electing officers, and transacting [such] other business as may come before the meeting. The directors calling the meeting shall give at least three days’ notice thereof to each director so named, stating the time and place of the meeting.”

SECTION 38. Section 415-58, Hawaii Revised Statutes, is amended to read as follows:

“**[[§415-58]] Right to amend articles of incorporation.** A corporation may amend its articles of incorporation from time to time, in any and in as many respects as may be desired, so long as its articles of incorporation as amended contain only [such] those provisions which [might] may be lawfully contained in original articles of incorporation at the time of making [such] the amendment, and, if a change in shares or the rights of shareholders, or an exchange, reclassification, or cancellation of shares or rights of shareholders is to be made, [such] the provisions as may be necessary to effect [such] the change, exchange, reclassification, or cancellation.

In particular, and without limitation upon [such] this general power of amendment, a corporation may amend its articles of incorporation, from time to time, so as:

- (1) To change its corporate name[.];
- (2) To change its period of duration[.];
- (3) To change, enlarge, or diminish its corporate purposes[.];
- (4) To increase or decrease the aggregate number of shares, or shares of any class, which the corporation has authority to issue[.], except that if the aggregate number of authorized shares is

decreased by the corporation's acquisition of its own shares, the decrease shall be as provided in section 415-6;

- (5) To provide, change, or eliminate any provision with respect to the par value of any shares or class of shares[.];
- (6) To exchange, classify, reclassify, or cancel all or any part of its shares, whether issued or unissued[.];
- (7) To change the designation of all or any part of its shares, whether issued or unissued, and to change the preferences, limitations, and the relative rights in respect of all or any part of its shares, whether issued or unissued[.];
- (8) To change the shares of any class, whether issued or unissued, into a different number of shares of the same class or into the same or a different number of shares[,] of other classes[.];
- (9) To create new classes<sup>1</sup> or shares having rights and preferences either prior and superior or subordinate and inferior to the shares of any class then authorized, whether issued or unissued[.];
- (10) To cancel or otherwise affect the right of the holders of the shares of any class to receive dividends which have accrued but have not been declared[.];
- (11) To divide any preferred or special class of shares, whether issued or unissued, into series and fix and determine the designations of [such] the series and the variations in the relative rights and preferences as between the shares of [such] the series[.];
- (12) To authorize the board of directors to establish, out of authorized but unissued shares, series of any preferred or special class of shares and fix and determine the relative rights and preferences of the shares of any series so established[.];
- (13) To authorize the board of directors to fix and determine the relative rights and preferences of the authorized but unissued shares of series theretofore established in respect of which either the relative rights and preferences have not been fixed and determined or the relative rights and preferences theretofore fixed and determined are to be changed[.];
- (14) To revoke, diminish, or enlarge the authority of the board of directors to establish series out of authorized but unissued shares of any preferred or special class and fix and determine the relative rights and preferences of the shares of any series so established[.]; or
- (15) To limit, deny, or grant to shareholders of any class the preemptive right to acquire additional shares of the corporation, whether then or thereafter authorized."

SECTION 39. Section 415-59, Hawaii Revised Statutes, is amended to read as follows:

**"[§415-59] Procedure to amend articles of incorporation.** Amendments to the articles of incorporation shall be made in the following manner:

- (1) The board of directors shall adopt a resolution setting forth the proposed amendment and, if shares have been issued, directing that it be submitted to a vote at a meeting of shareholders, which may be either the annual or a special meeting. If no shares have been issued, the amendment shall be adopted by resolution of the board of directors and the provisions for adoption by shareholders shall not apply. If the corporation has only one class of shares outstanding, an amendment solely to change the number

of authorized shares to effectuate a split of, or stock dividend in, the corporation's own shares, or solely to do so and to change the number of authorized shares in proportion thereto, may be adopted by the board of directors[;], and the provisions for adoption by shareholders shall not apply, unless otherwise provided by the articles of incorporation. [The resolution may incorporate the proposed amendment in restated articles of incorporation which contain a statement that except for the designated amendment the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended, and that the restated articles of incorporation together with the designated amendment supersede the original articles of incorporation and all amendments thereto.]

- (2) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this chapter for the giving of notice of meetings of shareholders. If the meeting is an annual meeting, the proposed amendment [of such] or the summary may be included in the notice of [such] the annual meeting.
- (3) With respect to corporations incorporated on or after July 1, [1986,] 1987,<sup>1</sup> at such meeting a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.
- (4) With respect to corporations incorporated before July 1, [1986,] 1987,<sup>1</sup> at such meeting a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares having voting power. The articles of incorporation may be amended by the vote set forth in the preceding sentence to provide for a lesser proportion of shares, or of any class or series thereof, than is provided in the preceding sentence, in which case the articles of incorporation shall control, provided that said lesser proportion shall not be less than the proportion set forth in paragraph (3) of this section. Any number of amendments may be submitted to the shareholders, and voted upon by them, at one meeting."

SECTION 40. Section 415-60, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§415-60]]~~ **Class voting on amendments.** The holders of the outstanding shares of a class shall be entitled to vote as a class upon a proposed amendment, whether or not entitled to vote thereon by the provisions of the articles of incorporation, if the amendment would:

- (1) Increase or decrease the aggregate number of authorized shares of [such] that class[.];
- (2) Effect an exchange, reclassification, or cancellation of all or part of the shares of [such] that class[.];

ACT 135

- (3) Effect an exchange, or create a right of exchange, of all or any part of the shares of another class into the shares of [such] that class[.];
- (4) Change the designations, preferences, limitations, or relative rights of the shares of [such] that class[.];
- (5) Change the shares of [such] that class into the same or a different number of shares of the same class or another class or classes[.];
- (6) Create a new class of shares having rights and preferences prior and superior to the shares of [such] that class, or increase the rights and preferences or the number of authorized shares, of any class having rights and preferences prior or superior to the shares of [such] that class[.];
- (7) In the case of a preferred or special class of shares, divide the shares of [such] that class into series and fix and determine the designation of such series and the variations in the relative rights and preferences between the shares of such series, or authorize the board of directors to do so[.];
- (8) Limit or deny any existing preemptive rights of the shares of [such] that class[.]; or
- (9) Cancel or otherwise affect dividends on the shares of [such] that class which have accrued but have not been declared.”

SECTION 41. Section 415-61, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-61] Articles of amendment.** The articles of amendment shall be delivered to and filed by the director [pursuant to section 415-55,] and shall set forth:

- (1) The name of the corporation[.];
- (2) The amendments so adopted[.] which shall be identified by the numerical or other designation thereof in the articles of incorporation;
- (3) The date of the adoption of the amendment by the shareholders, or by the board of directors where no shares have been issued[.];
- (4) The number of shares outstanding, [and] the number of shares entitled to vote thereon, and if the shares of any class are entitled to vote[.];
- (5) The number of shares voted for and against [such] the amendment[,], respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against [such] the amendment, respectively, or if no shares have been issued, a statement to that effect[.]; and
- (6) If [such] the amendment provides for an exchange, reclassification, or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same shall be effected.”

SECTION 42. Section 415-63, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-63] Effect of articles of amendment.** No amendment shall affect any existing cause of action in favor of or against [such] the corporation, or any pending suit to which [such] the corporation shall be a party, or the existing rights of persons other than shareholders; and, in the event the corporate name shall be changed by amendment, no suit brought by or against [such] the corporation under its former name shall abate for that reason.”

SECTION 43. Section 415-64, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415-64]] Restated articles of incorporation.** A domestic corporation may at any time restate its articles of incorporation as theretofore amended, by a resolution adopted by the board of directors.

Upon the adoption of [such] the resolution, restated articles of incorporation shall set forth all of the operative provisions of the articles of incorporation as theretofore amended, together with a statement that the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended, and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto. The restated articles of incorporation shall be delivered to [and filed by] the director for filing [pursuant to section 415-55].”

SECTION 44. Section 415-65, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415-65]] Amendment of articles of incorporation in reorganization proceedings.** (a) Whenever a plan of reorganization of a corporation has been confirmed by decree or order of a court of competent jurisdiction in proceedings for the reorganization of [such] the corporation, pursuant to the provisions of any applicable statute of the United States relating to reorganizations of corporations, the articles of incorporation of the corporation may be amended, in the manner provided for in this section, in as many respects as may be necessary to carry out the plan and put it into effect, so long as the articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making [such] the amendment.

(b) In particular and without limitation upon [such] this general power of amendment, the articles of incorporation may be amended for such purpose so as to:

- (1) Change the corporate name, period of duration, or corporate purposes of the corporation;
- (2) Repeal, alter, or amend the bylaws of the corporation;
- (3) Change the aggregate number of shares or shares of any class, which the corporation has authority to issue;
- (4) Change the preferences, limitations, and relative rights in respect of all or any part of the shares of the corporation, and classify, reclassify, or cancel all or any part thereof, whether issued or unissued;
- (5) Authorize the issuance of bonds, debentures, or other obligations of the corporation, whether or not convertible into shares of any class or bearing warrants or other evidences of optional rights to purchase or subscribe for shares of any class, and fix the terms and conditions thereof; and
- (6) Constitute or reconstitute and classify or reclassify the board of directors of the corporation, and appoint directors and officers in place of or in addition to all or any of the directors or officers then in office.

(c) Amendments to the articles of incorporation pursuant to this section shall be made in the following manner:

- (1) Articles of amendment approved by decree or order of [such] a court shall be executed and verified on oath in duplicate by such person or persons as the court shall designate or appoint for the

purpose, and shall set forth the name of the corporation, the amendments of the articles of incorporation approved by the court, the date of the decree or order approving the articles of amendment, the title or the proceedings in which the decree or order was entered, and a statement that [such] the decree or order was entered by a court having jurisdiction [of] over the proceedings for the reorganization of the corporation pursuant to the provisions of an applicable statute of the United States.

- (2) The articles of amendment shall be delivered to and filed by the director [pursuant to section 415-55].

(d) The [amendment] amendments shall become effective upon the effective [time and] date of filing of the articles of amendment by the director without any action thereon by the directors or shareholders of the corporation and with the same effect as if the amendments had been adopted by unanimous action of the directors and shareholders of the corporation.”

SECTION 45. Section 415-71, Hawaii Revised Statutes, is amended to read as follows:

“**[[§415-71]] Procedure for merger.** Any two or more domestic corporations may merge into one of [such] the corporations pursuant to a plan of merger approved in the manner provided for in this chapter.

The board of directors of each corporation shall, by resolution [adopted by each such board], approve a plan of merger setting forth:

- (1) The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation[.];
- (2) The terms and conditions of the proposed merger[.];
- (3) The manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving corporation or of any other corporation held as an asset by any of the constituent corporations or, in whole or in part, into cash or other property[.];
- (4) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by [such] the merger[.]; and
- (5) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.”

SECTION 46. Section 415-72, Hawaii Revised Statutes, is amended to read as follows:

“**[[§415-72]] Procedure for consolidation.** Any two or more domestic corporations may consolidate into a new corporation pursuant to a plan of consolidation approved in the manner provided for in this chapter.

The board of directors of each corporation shall, by [a] resolution [adopted by each such board], approve a plan of consolidation setting forth:

- (1) The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation[.];
- (2) The terms and conditions of the proposed consolidation[.];
- (3) The manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the new corporation [or of any corporation,] or, in whole or in part, into cash or other property[.];
- (4) With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this chapter[.]; and

- (5) Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.”

SECTION 47. Section 415-72A, Hawaii Revised Statutes, is amended to read as follows:

“**[[§415-72A]] Procedure for share exchange.** All the issued or all the outstanding shares of one or more classes of any domestic corporation may be acquired through the exchange of all such shares of such class or classes by another domestic or foreign corporation pursuant to a plan of exchange approved in the manner provided in this chapter.

The board of directors of each corporation shall, by resolution adopted by each [such] board, approve a plan of exchange setting forth:

- (1) The name of the corporation and the jurisdiction in which it is incorporated, the shares of which are proposed to be acquired by exchange, and the name of the corporation to acquire the shares of [such] the corporation in the exchange, which is hereinafter designated as the acquiring corporation[.] and the jurisdiction in which it is incorporated;
- (2) The terms and conditions of the proposed exchange[.];
- (3) The manner and basis of exchanging the shares to be acquired for shares, obligations, or other securities of the acquiring corporation or any other corporation, or, in whole or in part, for cash or other property[.]; and
- (4) Such other provisions with respect to the proposed exchange as are deemed necessary or desirable. The procedure authorized by this section shall not [be deemed to] limit the power of a corporation to acquire all or part of the shares of any class or classes of a corporation through a voluntary exchange or otherwise by agreement with the shareholders.”

SECTION 48. Section 415-73, Hawaii Revised Statutes, is amended to read as follows:

“**[[§415-73]] Approval by shareholders.** (a) The board of directors of each corporation in the case of a merger or consolidation, and the board of directors of the corporation the shares of which are to be acquired in the case of [an] a share exchange, upon approving [such] the plan of merger, consolidation, or share exchange, shall, by resolution, direct that the plan be submitted to a vote at a meeting of its shareholders, which may be either an annual or a special meeting. Written notice shall be given to each shareholder of record, whether or not entitled to vote at [such] the meeting, not less than twenty days before [such] the meeting, in the manner provided in this chapter for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or a special meeting, shall state that the purpose or one of the purposes is to consider the proposed plan of merger, consolidation, or share exchange. A copy or a summary of the plan of merger, consolidation, or share exchange, as the case may be, shall be included in or enclosed with [such] the notice.

(b) With respect to corporations incorporated on or after July 1, [1986,] 1987, at [each] such a meeting, a vote of the shareholders shall be taken on the proposed plan. The plan shall be approved upon receiving the affirmative vote of the holders of a majority of each class of the shares entitled to vote thereon as a class and of the total shares entitled to vote thereon. Any class of shares of any such corporation shall be entitled to vote as a class if any such plan contains any provision which, if contained in a proposed amendment to articles of incorporation, would entitle such class of

## ACT 135

shares to vote as a class and, in the case of an exchange, if the class is included in the exchange.

(c) With respect to corporations incorporated before July 1, [1986,] 1987, at [each] such meeting, a vote of the shareholders shall be taken on the proposed plan. The plan shall be approved upon receiving the affirmative vote of the holders of three-fourths of all the issued and outstanding shares of stock having voting power even though their right to vote is otherwise restricted or denied by the articles, bylaws, or resolutions of any such corporation. The articles of incorporation may be amended by the vote set forth in the preceding sentence to provide for a lesser proportion of shares, or of any class or series thereof, than is provided in the preceding sentence, in which case the articles of incorporation shall control, provided that said lesser proportion shall be not less than the proportion set forth in subsection (b) of this section.

(d) After [such] the approval by a vote of the shareholders of each [such corporation,] of the corporations, and at any time prior to the filing of the articles of merger, consolidation, or share exchange, the merger, consolidation, or share exchange may be abandoned pursuant to provisions therefor, if any, set forth in the plan.

- (e) (1) Notwithstanding the provisions of subsections (a) and (b), submission of a plan of merger to a vote at a meeting of shareholders of a surviving corporation shall not be required if:
- (A) The articles of incorporation of the surviving corporation do not differ except in name from those of the corporation before the merger[.];
  - (B) Each holder of shares of the surviving corporation which were outstanding immediately before the effective date of the merger is to hold the same number of shares with identical rights immediately after[.];
  - (C) The number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable on conversion of other securities issued by virtue of the terms of the merger and on exercise of rights and warrants so issued, will not exceed by more than twenty per cent the number of voting shares outstanding immediately before the merger, and
  - (D) The number of participating shares outstanding immediately after the merger, plus the number of participating shares issuable on conversion of other securities issued by virtue of the terms of the merger and on exercise of rights and warrants so issued, will not exceed by more than twenty per cent the number of participating shares outstanding immediately before the merger.
- (2) As used in this subsection:
- (A) "Voting shares" means shares which entitle their holders to vote unconditionally in elections of directors;
  - (B) "Participating shares" means shares which entitle their holders to participate without limitation in [distribution] distributions of earnings or surplus."

SECTION 49. Section 415-74, Hawaii Revised Statutes, is amended to read as follows:

"**[[§415-74]] Articles of merger or consolidation.** (a) Upon receiving the approvals required by sections 415-71, 415-72, 415-72A, and 415-73,



articles of merger or articles of consolidation shall be delivered to [and filed by] the director for filing pursuant to section 415-55 and shall set forth:

- (1) The plan of merger, or the plan of consolidation[.];
- (2) [As to each corporation, either] Either (A) [the shareholders of which were required to vote thereon, the number of shares outstanding, and, if the shares of any class were entitled to vote as a class, the designation and number of outstanding shares of each such class, or (B)] a statement that the vote of shareholders is not required by virtue of section [415-73(d).] 415-73(e), or (B) as to each corporation, the approval of whose shareholders is required, the number of shares outstanding, and, if the shares of any class were entitled to vote as a class, the designation and number of outstanding shares of each class; and
- (3) As to each corporation the approval of whose shareholders is required, the number of shares voted for and against [such] the plan, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each [such] class voted for and against [such] the plan, respectively.

(b) The certificate of merger or certificate of consolidation shall be returned to the surviving or new corporation, as the case may be, or its representative."

SECTION 50. Section 415-75, Hawaii Revised Statutes, is amended to read as follows:

**"[§415-75] Merger of subsidiary corporation.** (a) Any corporation owning at least ninety per cent of the outstanding shares of each class of another corporation may merge [such] the other corporation into itself without approval by a vote of the shareholders [or] of either corporation. Its board of directors shall, by resolution, approve a plan of merger setting forth:

- (1) The name and jurisdiction of incorporation of the subsidiary corporation and the name and jurisdiction of incorporation of the corporation owning at least ninety per cent of its shares, which is hereinafter designated as the surviving corporation[.]; and
- (2) The manner and basis of converting the shares of the subsidiary corporation into shares, obligations, or other securities of the surviving corporation or of any other corporation or, in whole or in part, into cash or other property.

(b) A copy of [such] the plan of merger shall be mailed to each shareholder of record of the subsidiary corporation.

(c) Articles of merger shall be delivered to [and filed by] the director for filing [pursuant to section 415-55,] and shall set forth:

- (1) The plan of merger;
- (2) The number of outstanding shares of each class of the subsidiary corporation and the number of [such] shares of each class owned by the surviving corporation; and
- (3) The date of the mailing to shareholders of the subsidiary corporation of a copy of the plan of merger.

(d) On and after the thirtieth day after the mailing of a copy of the plan of merger to shareholders of the subsidiary corporation or upon the waiver thereof by the holders of all outstanding shares [duplicate originals of] the articles of merger shall be delivered to the director [who shall file them] for filing pursuant to section 415-55."

ACT 135

SECTION 51. Chapter 415, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§415- Merger of subsidiary corporations.** (a) Any corporation owning at least ninety per cent of the outstanding shares of each class of two or more corporations may deliver to the director for filing articles of merger. The articles of merger shall be signed by any two officers of the parent corporation and any two officers of the surviving subsidiary corporation, and shall set forth:

- (1) The name of the parent corporation owning at least ninety percent of the shares of the subsidiary corporations, the name of the nonsurviving subsidiary corporation, and the name of the surviving subsidiary corporation; and
- (2) The manner and basis of converting the shares of the nonsurviving subsidiary corporation into shares, obligations, or other securities of the surviving subsidiary corporation or of any other corporation or, in whole or in part, into cash or other property.

(b) A copy of the plan of merger shall be mailed to each shareholder of record of the subsidiary corporation.

(c) Articles of merger shall be delivered to the director for filing and shall set forth:

- (1) The plan of merger;
- (2) The number of outstanding shares of each class of the nonsurviving subsidiary corporation and the number of such shares of each class owned by the surviving subsidiary corporation; and
- (3) The date of the mailing to shareholders of the subsidiary corporations of a copy of the plan of merger.

(d) On and after the thirtieth day after the mailing of a copy of the plan of merger to shareholders of the nonsurviving subsidiary corporation or upon the waiver thereof by the holders of all outstanding shares the articles of merger shall be delivered to the director for filing.”

SECTION 52. Section 415-76, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[§415-76]]~~ Effect of merger or consolidation.** A merger or consolidation shall become effective upon the effective time and date of filing the articles of merger or consolidation~~]., or upon time and date subsequent to the filing as set forth in the articles, but not more than thirty days after being filed.~~

When a merger or consolidation has become effective:

- (1) The several corporations parties to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation~~].;~~
- (2) The separate existence of all corporations parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease~~].;~~
- (3) ~~[Such]~~ The surviving or new corporation shall have all of the rights, privileges, immunities, and powers and shall be subject to all of the duties and liabilities of a corporation organized under this chapter~~].;~~
- (4) ~~[Such]~~ The surviving or new corporation shall thereupon and thereafter possess all of the rights, privileges, immunities, and

franchises, of a public as well as of a private nature, of each of the merging or consolidating corporations; and all property, real, personal, and mixed, and all debts due on whatever account, including subscriptions to shares, and all other [chooses] choses in action, and all and every other interest of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and [deemed to be] transferred to and vested in [such] the single corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of [such] the corporations shall not revert or be [in any way] impaired in any way by reason of [such] the merger or consolidation[.];

- (5) [Such] The surviving or new corporation shall thenceforth be responsible and liable for all of the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of [such] the corporations may be prosecuted as if [such] the merger or consolidation had not taken place, or [such] the surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by [such] the merger or consolidation[.]; and
- (6) In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this chapter shall be deemed to be the original articles of incorporation of the new corporation.

When a merger or consolidation has become effective, the shares of the corporation or corporations party to the plan that are, under the terms of the plan, to be converted, shall cease to exist, in the case of a merger or consolidation, and the holders of [such] the shares shall thereafter be entitled only to the shares, obligations, other securities, cash, or other property into which they shall have been converted, in accordance with the plan, subject to any rights under section 415-80 [of this chapter].”

SECTION 53. Section 415-77, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§415-77]]~~ **Merger, consolidation, or share exchange [of shares] between domestic and foreign corporations.** One or more foreign corporations and one or more domestic corporations may be merged or consolidated, or participate in [an] a share exchange, in the following manner, if [such] the merger, consolidation, or share exchange is permitted by the laws of the state under which each [such] foreign corporation is organized:

- (1) Each domestic corporation shall comply with the provisions of this chapter with respect to the merger, consolidation, or share exchange, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized[.]; and
- (2) If the surviving or new corporation in a merger or consolidation is to be governed by the laws of any state other than this State, it shall comply with the provisions of this chapter with respect to

foreign corporations if it is to transact business in this State, and in every case it shall file with the director of this State:

- (A) An agreement that it may be served with process in this State in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to [such] the merger or consolidation and in any proceeding for the enforcement of the rights of a dissenting shareholder of [any such] the domestic corporation against the surviving or new corporation;
- (B) An irrevocable appointment of [the director] a resident of this State as its agent to accept service of process in any such proceeding; and
- (C) An agreement that it will promptly pay to the dissenting shareholders of [any such] the domestic corporation, the amount, if any, to which they shall be entitled under provisions of this chapter with respect to the rights of dissenting shareholders .”

SECTION 54. Section 415-79, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-79]** **Sale of assets other than in regular course of business.** A sale, lease, exchange, or other disposition of all or substantially all[,] of the property and assets, with or without the good will of a corporation, if not in the usual and regular course of its business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of cash or other property, including shares, obligations, or other securities of any other corporation, domestic or foreign, as may be authorized in the following manner:

- (1) The board of directors shall adopt a resolution recommending [such] the sale, lease, exchange, or other disposition and directing the submission thereof to a vote at a meeting of shareholders, which may be either an annual or a special meeting[.];
- (2) Written notice shall be given to each shareholder of record, whether or not entitled to vote at [such] the meeting, not less than twenty days before [such] the meeting, in the manner provided in this chapter for the giving of notice of meetings of shareholders and, whether the meeting be an annual or a special meeting, shall state that the purpose, or one of the purposes is to consider the proposed sale, lease, exchange, or other disposition[.];
- (3) With respect to corporations incorporated on or after July 1, 1987, at such meeting the shareholders may authorize [such] the sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. [Such] The authorization shall require the affirmative vote of the holders of a majority of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event [such] the authorization shall require the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote as a class thereon and of the total shares entitled to vote thereon[.];
- (4) With respect to corporations incorporated before July 1, 1987, at such meeting the shareholders may authorize [such] the sale,

lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefore. [Such] The authorization shall require the affirmative vote of the holders of three-fourths of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event [such] the authorization shall require the affirmative vote of the holders of three-fourths of the shares of each class of shares entitled to vote as a class thereon and of the total shares entitled to vote thereon. The articles of incorporation may be amended by the vote set forth in the preceding sentence to provide for a lesser proportion of shares, or of any class or series thereof, than is provided in the preceding sentence, in which case the articles of incorporation shall control, provided that said lesser proportion shall [be] not be less than the proportion set forth in paragraph (3) of this section[.]; and

- (5) After [such] the authorization by a vote of shareholders, the board of directors nevertheless, in its discretion, may abandon [such] the sale, lease, exchange, or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by shareholders.”

SECTION 55. Section 415-80, Hawaii Revised Statutes, is amended to read as follows:

“**[[§415-80]] Right of shareholders to dissent.** (a) Any shareholder of a corporation shall have the right to dissent from, and to obtain payment for his shares in the event of, any of the following corporate actions:

- (1) Any plan of merger or consolidation to which the corporation is a party, except as provided in subsection (c);
- (2) Any sale or exchange of all or substantially all of the property and assets of the corporation not made in the usual and regular course of its business, including a sale in dissolution, but not including a sale pursuant to an order of a court having jurisdiction in the premises or a sale for cash on terms requiring that all or substantially all of the net proceeds of sale be distributed to the shareholders in accordance with their respective interests within one year after the date of sale;
- (3) Any plan of exchange to which the corporation is a party as the corporation the shares of which are to be acquired;
- (4) Any amendment of the articles of incorporation which materially and adversely affects the rights appurtenant to the shares of the dissenting shareholder in that it:
  - (A) Alters or abolishes a preferential right of [such] the shares;
  - (B) Creates, alters, or abolishes a right in respect of the redemption of [such] the shares, including a provision respecting a sinking fund for the redemption or repurchase of [such] the shares;
  - (C) Alters or abolishes a preemptive right of the holder of [such] the shares to acquire shares or other securities; or
  - (D) Excludes or limits the right of the holder of [such] the shares to vote on any matter, or to cumulate his votes, except as [such] the right may be limited by dilution through the issuance of shares or other securities with similar voting rights; or

- (5) Any other corporate action taken pursuant to a shareholder vote with respect to which the articles of incorporation, the bylaws, or a resolution of the board of directors directs that dissenting shareholders shall have a right to obtain payment for their shares.
- (b) (1) A record holder of shares may assert dissenters' rights as to less than all of the shares registered in his name only if he dissents with respect to all the shares beneficially owned by any one person, and discloses the name and address of the person or persons on whose behalf he dissents. In that event, his rights shall be determined as if the shares as to which he has dissented and his other shares were registered in the names of different shareholders.
- (2) A beneficial owner of shares who is not the record holder may assert dissenters' rights with respect to shares held on his behalf, and shall be treated as a dissenting shareholder under the terms of this section and section 415-31 if he submits to the corporation at the time of or before the assertion of these rights a written consent of the record holder.
- (c) The right to obtain payment under this section shall not apply to the shareholders of the surviving corporation in a merger if a vote of the shareholders of [such] the corporation is not necessary to authorize [such] the merger.
- (d) A shareholder of a corporation who has a right under this section to obtain payment for his shares shall have no right at law or in equity to attack the validity of the corporate action that gives rise to his right to obtain payment<sup>1</sup> nor to have the action set aside or rescinded, except when the corporate action is unlawful or fraudulent with regard to the complaining shareholder or to the corporation."

SECTION 56. Section 415-81, Hawaii Revised Statutes, is amended by amending subsections (a), (c), (d), (h), and (j) to read as follows:

"(a) As used in this section:

[(1)] "Dissenter" means a shareholder or beneficial owner who is entitled to and does assert dissenters' rights under section 415-80, and who has performed every act required up to the time involved for the assertion of such rights.

[(2)] "Corporation" means the issuer of the shares held by the dissenter before the corporate action, or the successor by merger or consolidation of that issuer.

[(3)] "Fair value" of shares means their value immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of [such] the corporate action unless [such] the exclusion would be inequitable.

[(4)] "Interest" means interest from the effective date of the corporate action until the date of payment, at the average rate currently paid by the corporation on its principal bank loans, or, if none, at such rate as is fair and equitable under all of the circumstances.

(c) If the proposed corporate action is submitted to a vote at a meeting of shareholders, any shareholder who wishes to dissent and obtain payment for the shareholder's shares must file with the corporation, prior to the vote, a written notice of intention to demand that the shareholder be paid fair compensation for the shareholder's shares if the proposed action is effectuated<sup>1</sup> and shall refrain from voting the shareholder's shares in approval of [such] the action. A shareholder who fails in either respect shall acquire no

right to payment for the shareholder's shares under this section or section 415-80.

(d) If the proposed corporate action is approved by the required vote at a meeting of shareholders, the corporation shall mail a further notice to all shareholders who gave due notice of intention to demand payment and who refrained from voting in favor of the proposed action. If the proposed corporate action is to be taken without a vote of shareholders, the corporation shall send to all shareholders who are entitled to dissent and demand payment for their shares a notice of the adoption of the plan of corporate action. The notice shall: (1) state where and when a demand for payment must be sent and certificates of certificated shares must be deposited in order to obtain payment; (2) inform holders of uncertificated shares to what extent transfer of shares will be restricted from the time that demand for payment is received; (3) supply a form for demanding payment which includes a request for certification of the date on which the shareholder, or the person on whose behalf the shareholder dissents, acquired beneficial ownership of the shares; and (4) be accompanied by a copy of sections 415-80 and 415-81 of this chapter. The time set for the demand and deposit shall [be] not be less than thirty days from the mailing of the notice.

- (h) (1) [Within] Not more than sixty days after receiving a demand for payment pursuant to subsection (g), if any such demands for payment remain unsettled, the corporation shall file in an appropriate court a petition requesting that the fair value of the shares and interest thereon be determined by the court.
- (2) An appropriate court shall be a court of competent jurisdiction in the county of this State where the registered office of the corporation is located. If, in the case of a merger or consolidation or share exchange [of shares], the corporation is a foreign corporation without a registered office in this State, the petition shall be filed in the county where the registered office of the domestic corporation was last located.
- (3) All dissenters, wherever residing, whose demands have not been settled shall be made parties to the proceeding as in an action against their shares. A copy of the petition shall be served on each [such] dissenter; if a dissenter is a nonresident, the copy may be served on the dissenter by registered or certified mail or by publication as provided by law.
- (4) The jurisdiction of the court shall be plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as shall be specified in the order of their appointment or in any amendment thereof. The dissenters shall be entitled to discovery in the same manner as parties in other civil suits.
- (5) All dissenters who are made parties shall be entitled to judgment for the amount by which the fair value of their shares is found to exceed the amount previously remitted, with interest.
- (6) If the corporation fails to file a petition as provided in paragraph (1) of this subsection, each dissenter who made a demand and who has not already settled the dissenter's claim against the corporation shall be paid by the corporation the amount demanded by the dissenter, with interest, and may sue therefor in an appropriate court.
- (j) (1) Notwithstanding the foregoing provisions of this section, the corporation may elect to withhold the remittance required by

subsection (f) from any dissenter with respect to shares of which the dissenter (or the person on whose behalf the dissenter acts) was not the beneficial owner on the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action. With respect to such shares, the corporation shall, upon effectuating the corporate action, state to each dissenter its estimate of the fair value of the shares, state the rate of interest to be used (explaining the basis thereof), and offer to pay the resulting amounts on receiving the dissenter's agreement to accept them in full satisfaction.

- (2) If the dissenter believes that the amount offered is less than the fair value of the shares and interest determined according to this section, the dissenter may within thirty days after the date of mailing of the corporation's offer, mail to the corporation the dissenter's own estimate of fair value and interest, and demand their payment. If the dissenter fails to do so, the dissenter shall be entitled to no more than the corporation's offer.
- (3) If the dissenter makes a demand as provided in paragraph (2), the provisions of subsections (h) and (i) shall apply to further proceedings on the dissenter's demand."

SECTION 57. Section 415-82, Hawaii Revised Statutes, is amended to read as follows:

**"[§415-82] Voluntary dissolution by incorporators.** A corporation which has not commenced business and which has not issued any shares, may be voluntarily dissolved by its incorporators at any time in the following manner:

Articles of dissolution shall be delivered to [and filed by] the director for filing pursuant to section 415-55,] and shall set forth:

- (1) The name of the corporation[.];
- (2) The date of [issuance of] its [certificate of] incorporation[.];
- (3) That none of its shares has been issued[.];
- (4) That the corporation has not commenced business[.];
- (5) That the amount, if any, actually paid in on subscriptions for its shares, less any part thereof disbursed for necessary expenses has been returned to those entitled thereto[.];
- (6) That no debts of the corporation remain unpaid[.]; and
- (7) That a majority of the incorporators elect that the corporation be dissolved.

[After] Upon the filing of the articles of dissolution, [the director shall issue a certificate of dissolution. Upon the issuance of such certificate of dissolution by the director,] the existence of the corporation shall cease."

SECTION 58. Section 415-83, Hawaii Revised Statutes, is amended to read as follows:

**"[§415-83] Voluntary dissolution by consent of shareholders.** A corporation may be voluntarily dissolved by the written consent of all of its shareholders.

Upon the execution of [such] the written consent, a statement of intent to dissolve shall set forth:

- (1) The name of the corporation[.];
- (2) The names and respective residence addresses of its officers[.];
- (3) The names and respective residence addresses of its directors[.];
- (4) A copy of the written consent signed by all shareholders of the corporation[.]; and



- (5) A statement that [such] the written consent has been signed by all shareholders of the corporation.”

SECTION 59. Section 415-84, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§415-84**~~]]~~ **Voluntary dissolution by act of corporation.** A corporation may be dissolved by the act of the corporation, when authorized, in the following manner:

- (1) The board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of [such] the dissolution be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting[.];
- (2) Written notice shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of shareholders, and, that one of the purposes[.] of [such] the meeting is to consider the advisability of dissolving the corporation[.];
- (3) With respect to corporations incorporated on or after July 1, 1987, at such meeting a vote of shareholders entitled to vote thereat shall be taken on a resolution to dissolve the corporation. [Such] The resolution shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the resolution shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon[.];
- (4) With respect to corporations incorporated before July 1, 1987, at such meeting a vote of shareholders entitled to vote thereat shall be taken on a resolution to dissolve the corporation. [Such] The resolution shall be adopted upon receiving the affirmative vote of the holders of three-fourths of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the resolution shall be adopted upon receiving the affirmative vote of the holders of three-fourths of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon. The articles of incorporation may be amended by the vote set forth in the preceding sentence to provide for a lesser proportion of shares, or of any class or series thereof, than is provided in the preceding sentence, in which case the articles of incorporation shall control, provided that said lesser proportion shall [be] not be less than the proportion set forth in paragraph (3) of this section[.]; and
- (5) Upon the adoption of [such] the resolution, a statement of intent to dissolve shall set forth:
  - (A) The name of the corporation[.];
  - (B) The names and respective residence addresses of its officers[.];
  - (C) The names and respective residence addresses of its directors[.];

ACT 135

- (D) A copy of the resolution adopted by [all] the shareholders authorizing the dissolution of the corporation[.];
- (E) The number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each [such] class[.]; and
- (F) The number of shares voted for and against the resolution, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against the resolution, respectively.”

SECTION 60. Section 415-86, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-86] Effect of the statement of intent to dissolve.** Upon the effective [time and] date of a statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, the corporation shall cease to carry on its business, except insofar as may be necessary for the winding up thereof, but its corporate existence shall continue until [a certificate of dissolution has been issued by the director] articles of dissolution are delivered to the director for filing or until a decree dissolving the corporation has been entered by a court of competent jurisdiction as provided in this chapter [provided].”

SECTION 61. Section 415-87, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-87] Procedure after filing of statement of intent to dissolve.** After the filing by the director of a statement of intent to dissolve:

- (1) The corporation shall immediately cause notice thereof to be mailed to each known creditor of the corporation[.];
- (2) The corporation shall forthwith publish, once in each of four successive weeks (four publications) in a newspaper of general circulation published in the State, notice thereof to all creditors of the corporation. The corporation, with the approval of the director, may omit the publication of the notice if the corporation has insufficient assets to pay for the publication;
- (3) The corporation shall proceed to collect its assets, convey, and dispose of such of its properties as are not to be distributed in kind to its shareholders, pay, satisfy, and discharge its liabilities and obligations and do all other acts required to liquidate its business and affairs, and, after paying or adequately providing for the payment of all of its obligations, distribute the remainder of its assets, either in cash or in kind, among its shareholders according to their respective rights and interests[.]; and
- (4) The corporation, at any time during the liquidation of its business and affairs, may make application to a court of competent jurisdiction within the state and judicial subdivision in which the registered office or principal place of business of the corporation is situated, to have the liquidation continued under the supervision of the court as provided in this chapter.”

SECTION 62. Section 415-88, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-88] Revocation of voluntary dissolution proceedings by consent of shareholders.** By the written consent of all of its shareholders, a corporation may, at any time prior to the [issuance of a certificate] filing the

articles of dissolution by the director, revoke voluntary dissolution proceedings theretofore taken, in the following manner:

Upon the execution of such written consent, a statement of revocation of voluntary dissolution proceedings shall set forth:

- (1) The name of the corporation[.];
- (2) The names and respective addresses of its officers[.];
- (3) The names and respective addresses of its directors[.];
- (4) A copy of the written consent signed by all shareholders of the corporation revoking [such] the voluntary dissolution proceedings[.]; and
- (5) That [such] the written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized.”

SECTION 63. Section 415-89, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-89]** **Revocation of voluntary dissolution proceedings by act of corporation.** By the act of the corporation, a corporation may, at any time prior to the [issuance of a certificate] filing the articles of dissolution by the director, revoke voluntary dissolution proceedings theretofore taken, in the following manner:

- (1) The board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of [such] the revocation be submitted to a vote at a special meeting of shareholders[.];
- (2) Written notice, stating that the purpose or one of the purposes of [such] the meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each shareholder of record entitled to vote at [such] the meeting within the time and in the manner provided in this chapter for the giving of notice of special meetings of shareholders[.];
- (3) At [such] the meeting, a vote of the shareholders entitled to vote thereat shall be taken on a resolution to revoke the voluntary dissolution proceedings, which shall require for its adoption the affirmative vote of the holders of a majority of the shares entitled to vote thereon[.] and shall be adopted in the same manner as the dissolution was authorized in section 415-84, and
- (4) Upon the adoption of [such] the resolution, a statement of revocation of voluntary dissolution proceedings shall set forth:
  - (A) The name of the corporation[.];<sup>1</sup>
  - (B) The names and respective addresses of its officers[.];
  - (C) The names and respective addresses of its directors[.];
  - (D) A copy of the resolution adopted by the shareholders revoking the voluntary dissolution proceedings[.];
  - (E) The number of shares outstanding[.]; and
  - (F) The number of shares voted for and against the resolution, respectively.”

SECTION 64. Section 415-92, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-92]** **Articles of dissolution.** If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities, and obligations of the corporation have been paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the

corporation have been distributed to its shareholders, articles of dissolution verified on oath by two officers shall set forth:

- (1) The name of the corporation[.];
- (2) That the director has theretofore filed a statement of intent to dissolve the corporation and the date on which [such] the statement was filed[.];
- (3) [That] The dates that notice of the filing of the statement of intent to dissolve the corporation [has been] was published, once in each of four successive weeks (four publications) in a newspaper of general circulation published in the State[.] or that publication of notice had been waived by the director;
- (4) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor[.];
- (5) That all of the remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests[.]; and
- (6) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending suit.”

SECTION 65. Section 415-93, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-93] Filing of articles of dissolution.** Articles of dissolution shall be delivered to [and filed by] the director for filing [pursuant to section 415-55]. [After] Upon the filing of the articles of dissolution[, the director shall issue a certificate of dissolution. Upon the issuance of such certificate of dissolution] or upon a date subsequent to the filing as set forth in the articles, but not more than thirty days after being filed, the existence of the corporation shall cease, except for the purpose of actions, other proceedings and appropriate corporate action by shareholders, directors, and officers as provided in this chapter.”

SECTION 66. Section 415-94, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-94] Involuntary dissolution.** A corporation may be dissolved involuntarily when it is established that:

- (1) The corporation has failed to file its annual report [within the time required by this chapter;] for a period of two years; or
- (2) The corporation procured its articles of incorporation through fraud; or
- (3) The corporation has continued to exceed or abuse the authority conferred upon it by law; or
- [(4) The corporation has failed for thirty days to appoint and maintain a registered agent in this State; or
- (5) The corporation has failed for thirty days after change of its registered office or registered agent to file in the office of the director a statement of such change; or
- (6)] (4) The corporation has failed to complete voluntary dissolution within [five] two years[; or
- (7) The corporation has been adjudicated bankrupt; or
- (8) The corporation’s articles of incorporation have expired and the corporation has not attempted to renew or extend the articles for two years].”

SECTION 67. Section 415-95, Hawaii Revised Statutes, is amended to read as follows:

“[§415-95] Involuntary; ordered by director and certificates, notices, etc.; reinstatement. (a) Whenever the director [shall certify] certifies the name of a corporation as having given any cause for dissolution pursuant to section 415-94, the director may [disincorporate the corporation or annul the articles of incorporation of the corporation and] declare the corporation dissolved[, after giving notice of the intention to dissolve the corporation by mailing to the corporation at its last known address appearing in the records of the director and by publishing notice of such intention once in each of three successive weeks (three publications) in a newspaper of general circulation published in the State]. Before the director may declare a corporation dissolved, the director shall:

- (1) Give notice of the ground or grounds for dissolution as provided in section 415-94, by mailing the notice to the corporation at its last known address appearing in the records of the director; and
- (2) Give notice of the intention to dissolve the corporation by publishing the notice once in each of three successive weeks (three publications) in a newspaper of general circulation published in the State.

(b) Parties of interest may petition a court of competent jurisdiction to appoint a trustee to settle the affairs of any corporation so dissolved. If [any such corporation is declared dissolved any] a trustee is appointed [to settle the affairs of the corporation], the trustee shall pay to the State out of any funds that may come into the trustee's hands as trustee, a sum equal to any penalty imposed under section 415-135.<sup>1</sup> If a trustee is not appointed by a court of competent jurisdiction, the last directors of the dissolved corporation shall be and act as trustees for the creditors and shareholders of the dissolved corporation with full powers to settle its affairs.

(c) The director shall, in each case, deliver a copy of the decree of dissolution to the director of taxation and to the finance officer of each county.

(d) In each case where the director has given a corporation notice of intention to dissolve the corporation on the grounds that its articles of incorporation have been procured through fraud, the corporation shall be entitled to petition for an administrative hearing under chapter 91 and shall give written notice to the director thereof, before the director may declare the corporation dissolved under subsection (a) of this section.

(e) Within ninety days after the involuntary dissolution of a corporation under this section, the corporation may be reinstated by the director upon written application executed by any two officers of the corporation setting forth such information as the director may require, and the payment of all delinquent fees, penalties, assessments, taxes, costs of involuntary dissolution, and the filing of all reports due and unfiled. Within the ninety-day period, should the name of the corporation, or a name substantially identical thereto be registered or reserved by another corporation or partnership, or should such name or a name substantially identical thereto be registered as a trade name, then reinstatement shall be allowed only upon the registration of a new name by the involuntarily dissolved corporation pursuant to the amendment provisions of this chapter.

(f) A corporation whose articles of incorporation have expired shall cease to exist by operation of law.”

SECTION 68. Section 415-96, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415-96]] Equal division of directors; appointment of provisional director; qualifications; rights and powers; compensation.** (a) If a corporation has an even number of directors who are equally divided and cannot agree as to the management of its affairs, so that its business can no longer be conducted [to advantage] advantageously or so that there is danger that its property and business will be impaired or lost, [a first] any circuit judge may, notwithstanding any provisions of the articles or bylaws and whether or not an action is pending for an involuntary dissolution of the corporation, appoint a provisional director pursuant to this section. Action for such appointment may be brought by any director or by shareholders holding not less than [thirty-three and] one-third [per cent] of the voting power.

(b) A provisional director shall be an impartial person, who is neither a shareholder or member, nor a creditor, nor officer of the corporation, nor related by consanguinity or affinity within the third degree according to the common law to any of the other directors of the corporation or to any judge of the court by which [such] the provisional director is appointed. A provisional director shall have all of the rights and powers of a director until the deadlock in the board or among the shareholders or members is broken or until [such] the provisional director is removed by order of the court or by approval of shareholders or members holding a majority of the voting power. [Such person] A provisional director shall be entitled to such compensation as shall be fixed by the court unless otherwise agreed with the corporation.”

SECTION 69. Section 415-97, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415-97]] Jurisdiction of court to liquidate assets and business of corporation.** The [courts] court shall have full power to liquidate the assets and business of a corporation:

- (1) In an action by a shareholder when it is established:
  - (A) That the directors are deadlocked in the management of the corporate affairs and the shareholders are unable to break the deadlock, and that irreparable injury to the corporation is being suffered or is threatened by reason thereof; or
  - (B) That the acts of the directors or those in control of the corporation are illegal, or fraudulent; or
  - (C) That the shareholders are deadlocked in voting power, and have failed, for a period which includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors; or
  - (D) That the corporate assets are being misapplied or wasted[.]; or
- (2) In an action by a creditor:
  - (A) When the claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is established that the corporation is insolvent; or
  - (B) When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent[.]; or
- (3) Upon application by a corporation which has filed a statement of intent to dissolve, as provided in this chapter, to have its liquidation continued under the supervision of the court[.]; or

- (4) When an action has been filed by the director to dissolve a corporation and it is established that liquidation of its business and affairs should precede the entry of a decree of dissolution.

Proceedings under paragraph (1), (2), or (3) of this section shall be brought in the county in which the registered office or the principal office of the corporation is situated.

It shall not be necessary to make shareholders parties to any such action or proceeding unless relief is sought against them personally.”

SECTION 70. Section 415-98, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-98] Procedure in liquidation of corporation by court.** In proceedings to liquidate the assets and business of a corporation the court shall have power to issue injunctions, to appoint a receiver or receivers pendente lite, with such powers and duties as the court, from time to time, may direct, and to take such other proceedings as may be requisite to preserve the corporate assets wherever situated, and carry on the business of the corporation until a full hearing can be held.

After a hearing held upon such notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation, including all amounts owing to the corporation by subscribers on account of any unpaid portion of the consideration for the issuance of shares. [Such] The liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey, and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The assets of the corporation or the proceeds resulting from a sale, conveyance, or other disposition thereof shall be applied to the expenses of [such] the liquidation and to the payment of the liabilities and obligations of the corporation, and any remaining assets or proceeds shall be distributed among its shareholders according to their respective rights and interests. The order appointing [such] the liquidating receiver or receivers shall state their powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

The court shall have power to allow from time to time as expenses of the liquidation compensation to the receiver or receivers and to attorneys in the proceeding, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

A receiver of a corporation appointed under the provisions of this section shall have authority to sue and defend in all courts in the receiver's own name as receiver of [such] the corporation. The court appointing [such] the receiver shall have exclusive jurisdiction [of] over the corporation and its property, wherever situated.”

SECTION 71. Section 415-102, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-102] Decree of involuntary dissolution.** In proceedings to liquidate the assets and business of a corporation, when the costs and expenses of [such] the proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed to its shareholders, or in case its property and assets are not sufficient to satisfy and discharge [such] the costs, expenses, debts, and obligations, all of the property and assets have been applied so far as they will go to their payment, the court shall enter a decree

## ACT 135

dissolving the corporation, whereupon the existence of the corporation shall cease.”

SECTION 72. Section 415-103, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-103]** **Filing of decree of dissolution.** In case the court shall enter a decree dissolving a corporation, it shall be the duty of the clerk of [such] the court to cause a certified copy of the decree to be [filed with] delivered to the director[.] for filing. No fee shall be charged by the director for the filing thereof.”

SECTION 73. Section 415-105, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-105]** **Survival of remedy after dissolution.** The dissolution of a corporation either (1) by the [issuance of a certificate] filing of the articles of dissolution by the director[.]; or (2) by a decree of court when the court has not liquidated the assets and business of the corporation as provided in this chapter, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against [such] the corporation, its directors, officers, or shareholders, for any right or claim existing, or any liability incurred, prior to [such] the dissolution if an action or other proceeding thereon is commenced within two years after the date of [such] the dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The shareholders, directors, and officers shall have power to take [such] the corporate or other action as shall be appropriate to protect such remedy, right, or claim. If [such] the corporation was dissolved by the expiration of its period of duration, [such] the corporation may amend its articles of incorporation at any time during [such period of two years] the two-year period so as to extend its period of duration.”

SECTION 74. Section 415-106, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-106]** **Admission of foreign corporation.** (a) No foreign corporation shall have the right to transact business in this State until it shall have procured a certificate of authority [so to do] from the director. No foreign corporation shall be entitled to procure a certificate of authority under this chapter to transact in this State any business which a corporation organized under this chapter is not permitted to transact. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws of the state or [county] country under which [such] the corporation is organized governing its organization and internal affairs differ from the laws of this State, and nothing contained in this chapter [contained,] shall be construed to authorize this State to regulate the organization or the internal affairs of [such] a foreign corporation.

(b) Without excluding other activities which may not constitute transacting business in this State, a foreign corporation shall not be considered to be transacting business in this State, for the purposes of this chapter, by reason of carrying on in this State any one or more of the following activities:

- (1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes[.];
- (2) Holding meetings of its directors or shareholders or carrying on other activities concerning its internal affairs[.];



- (3) Maintaining bank accounts[.];
- (4) Maintaining offices or agencies for the transfer, exchange, and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities[.];
- (5) Effecting sales through independent contractors[.];
- (6) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where [such] the orders require acceptance without this State before becoming binding contracts[.];
- (7) Creating as borrower or lender, or acquiring, indebtedness or mortgages or other security interests in real or personal property[.];
- (8) Securing or collecting debts or enforcing any rights in property securing the same[.];
- (9) Transacting any business in interstate commerce[.]; or
- (10) Conducting an isolated transaction completed within a period of thirty days and not in the course of a number of repeated transactions of like nature.

(c) A foreign financial institution whose principal office is not within the State and which is federally or state-chartered and federally-insured, which by law is subject to periodic examination by its regulatory authority and to the requirement of periodic audit, shall not be considered to be doing business in this State by reason of engaging in the advertising or solicitation of savings accounts or investment or other certificates in this State by mail, radio, television, magazines, newspapers or any other media that are published or circulated within this State; provided that in any advertising or solicitation by mail, or in any media which is directed primarily to persons in this State, there shall be a conspicuous statement made that the institution is not supervised or regulated by this State. Such financial institution shall not thereby become subject to chapters 401, 402, 403, 406, 407 or 408. This subsection shall not apply to any financial institution doing business in Hawaii, chartered or licensed pursuant to chapters 401, 402, 403, 406, 407 or 408.”

SECTION 75. Section 415-107, Hawaii Revised Statutes, is amended to read as follows:

**“[§415-107] Powers of foreign corporation.** A foreign corporation which shall have received a certificate of authority under this chapter shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this chapter, enjoy the same, but no greater, rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which [such] the certificate of authority is issued; and, except as [in this chapter] otherwise provided[,] in this chapter, shall be subject to the same duties, restrictions, penalties, and liabilities now or hereafter imposed upon a domestic corporation of like character.”

SECTION 76. Section 415-108, Hawaii Revised Statutes, is amended to read as follows:

**“[§415-108] Corporate name of foreign corporation.** No certificate of authority shall be issued to a foreign corporation unless [the] its corporate name [of such corporation]:

- [(1) Shall contain the word “corporation,” “incorporated,” or “limited,” or shall contain an abbreviation of one of such words, or such corporation shall, for use in this State, add at the end of its name one of such words or an abbreviation thereof;

- (2) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation or that it is authorized or empowered to conduct the business of banking and insurance;
- (3) Shall (1) Is not [be] the same as, or [deceptively similar] substantially identical to, the name of any domestic corporation or partnership [or trade name] existing [or registered] under the laws of this State or any foreign corporation or partnership [or trade name] authorized to transact business in this State, [or] trade name registered in this State, or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter, except that this provision shall not apply if the foreign corporation applying for a certificate of authority files with the director any one of the following:
  - (A) The written consent of such other corporation or holder of a reserved or registered name to use the same or [deceptively similar] substantially identical name and one or more words are added to make [such] the name distinguishable from [such] the other name; or
  - (B) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of [such] the foreign corporation to the use of [such] the name in this State[.]; and
- (2) Is transliterated into letters of the English alphabet, if the name is not in English."

SECTION 77. Section 415-109, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415-109]] Change of name by foreign corporation.** (a) Whenever a foreign corporation which is authorized to transact business in this State shall change its name to one under which a certificate of authority would not be granted to it on application therefor, the [certificate of authority of such corporation shall be suspended and it] foreign corporation shall not thereafter transact any business in this State until it has changed its name to a name which is available to it under the laws of this State or has otherwise complied with the provisions of this chapter.

(b) If a foreign corporation is unable to change its name to a name which is available to it under the laws of this State, it may deliver to the director a copy of a certificate of registration of a trade name for the foreign corporation’s file and thereafter become authorized to transact business in the State under that name.”

SECTION 78. Section 415-110, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415-110]] Application for certificate of authority.** [A foreign corporation in order to] To procure a certificate of authority to transact business in this State, a foreign corporation should make application therefor to the director, which application shall set forth:

- (1) The name of the corporation and the [state or country under the laws of] jurisdiction in which it is incorporated;
- (2) If the name of the corporation does not contain the word “corporation,” “incorporated,” or “limited,” or does not contain an

abbreviation of one of such words, then the name of the corporation with the word or abbreviation which it elects to add thereto for use in this State;

- (3) (2) The date of incorporation and the period of duration of the corporation;
- [(4)] (3) The mailing address of the principal office of the corporation in the [state or country under the law of] jurisdiction in which it is incorporated;
- [(5)] (4) The street address of the proposed registered office of the corporation in this State, and the name of its proposed registered agent in this State at [such] that address;
- [(6)] (5) The primary specific purpose and such other purposes of the corporation which it proposes to pursue in the transaction of business in this State;
- [(7)] (6) The names and respective addresses of the directors and officers of the corporation;
- [(8)] A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes and series, if any, within a class;
- (9) A statement of the aggregate number of issued shares itemized by classes and by series, if any, within each class;
- [(10)] (7) An estimate, expressed in dollars, of the value of all property to be owned by the corporation for the following year, wherever located, and an estimate of the value of the property of the corporation to be located within this State during such year, and an estimate, expressed in dollars, of the gross amount of business which will be transacted by the corporation during [such] that year, and an estimate of the gross amount thereof which will be transacted by the corporation at or from places of business in this State during such year; and<sup>1</sup>
- [(11)] (8) [Such] Any additional information as may be necessary or appropriate [in order] to enable the director to determine whether [such] the corporation is entitled to a certificate of authority to transact business in this State [and to determine and assess the fees payable as in this chapter prescribed]. [Such] The application shall be made on forms prescribed and furnished by the director which shall be delivered to [and filed by] the director [pursuant to section 415-55.] for filing.”

SECTION 79. Section 415-111, Hawaii Revised Statutes, is amended to read as follows:

“**[[§415-111]] Filing of application for certificate of authority.** The application of the corporation for a certificate of authority shall be delivered to the director, together with a [copy of its articles of incorporation and all amendments thereto, and a] certificate of good standing duly authenticated by the proper officer of the state or country under the laws of which it is incorporated. If the certificate of good standing is in a foreign language, a translation under the oath of the translator shall accompany the certificate.”

SECTION 80. Section 415-112, Hawaii Revised Statutes, is amended to read as follows:

“**[[§415-112]] Effect of certificate of authority.** After filing the application for certificate of authority, the director shall issue a certificate of authority. Upon the issuance of a certificate of authority by the director[,]  
which shall be effective as of the date the application is delivered to the

## ACT 135

director for filing, the corporation shall be authorized to transact business in this State for those purposes set forth in its application, subject, however, to the right of this State to suspend or to revoke such authority as provided in this chapter.”

SECTION 81. Section 415-113, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-113] Registered office and registered agent of foreign corporation.** Each foreign corporation authorized to transact business in this State shall have and continuously maintain in this State:

- (1) A registered office which may [be], but need not, be[,] the same as its place of business in this State; and
- (2) A registered agent, which agent may be either an individual resident in this State whose business office is identical with [such] the registered office, or a domestic corporation[, or a foreign corporation authorized to transact business in this State,] having a business office identical with [such] the registered office.”

SECTION 82. Section 415-114, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-114] Change of registered office or registered agent of foreign corporation.** A foreign corporation authorized to transact business in this State may change its registered office or change its registered agent, or both, upon [filing in the office of] delivery to the director for filing a statement setting forth:

- (1) The name of the corporation[.];
- (2) The address of its then registered office[.];
- (3) If the address of its registered office be changed, the address to which the registered office is to be changed[.];
- (4) The name of its then registered agent[.];
- (5) If its registered agent be changed, the name of its successor registered agent[.];
- (6) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical[.]; and
- (7) That [such] the change was authorized by resolution duly adopted by its board of directors.

[Such] The statement shall be delivered to and filed by the director [pursuant to section 415-55].

Any registered agent of a foreign corporation may resign as [such] agent upon delivery to the director for<sup>1</sup> filing a written notice [thereof] of resignation,<sup>1</sup> executed in duplicate[, with the director, who]. The director<sup>1</sup> shall [forthwith] mail a copy thereof to the corporation at its principal office in the state or country under the laws of which it is incorporated. The appointment of [such] the<sup>1</sup> agent shall terminate upon the expiration of thirty days after receipt of [such] the notice by the director.

If [a registered agent changes the registered agent's or its] the business address of a registered agent is changed to another place within [the same county,] this State, the registered agent [or it] may change [such] the address and the address of the registered office of any corporation [of] for which the registered agent [or it is a registered agency] acts by filing a statement as required above, except that it need be signed only by the registered agent and need not be responsive to the provisions of paragraphs (5) or (7) and must recite that a copy of the statement has been mailed to the corporation.”

SECTION 83. Section 415-116, Hawaii Revised Statutes, is amended to read as follows:

**“[§415-116] Amendment to articles of incorporation of foreign corporation.** Whenever the [articles of incorporation] name of a foreign corporation authorized to transact business in this State [are amended, such] is changed by the amendment of its articles of incorporation, the foreign corporation shall, within thirty days after [such] the amendment becomes effective, [file in the office of] deliver to the director [a copy of such amendment] a certificate evidencing the name change, duly authenticated by the proper officer of the state or country under the laws of which it is incorporated; but the filing thereof shall not of itself enlarge or alter the purpose or purposes which such corporation is authorized to pursue in the transaction of business in this State, nor authorize such corporation to transact business in this State under any other name than the name set forth in its certificate of authority]. If the certificate is in a foreign language, a translation under oath of the translator shall accompany the certificate.”

SECTION 84. Section 415-117, Hawaii Revised Statutes, is amended to read as follows:

**“[§415-117] Merger of foreign corporation authorized to transact business in this State.** (a) Whenever a foreign corporation authorized to transact business in this State shall be a party to a statutory merger permitted by the laws of the state or country under the laws of which it is incorporated, and [such] the foreign corporation shall be the surviving corporation, it shall, within thirty days after [such] the merger becomes effective, [file with] deliver to the director a [copy of the articles of merger] certificate evidencing the merger, duly authenticated by the proper officer of the state or country under the laws of which [such] the statutory merger was effectuated; and it shall not be necessary for such corporation to procure either a new or amended certificate of authority to transact business in this State unless the name of such corporation is changed thereby or unless the corporation desires to pursue in this State other or additional purposes than those which it is then authorized to transact in this State]. The certificate evidencing the merger shall be evidence of a change of name if the name of the surviving corporation is changed thereby. If the certificate is in a foreign language a translation under oath of the translator shall accompany the certificate.

(b) Whenever a foreign corporation authorized to transact business in this State shall be a party to a statutory merger permitted by the laws of the state or country under the laws of which it is incorporated, and that corporation shall not be the surviving corporation, the surviving corporation shall, within thirty days after the merger becomes effective, deliver to the director for filing a certificate evidencing the merger in the form prescribed by subsection (a), together with an application for withdrawal of the merged foreign corporation in accordance with section 415-119 executed by the surviving corporation on behalf of the merged foreign corporation.

(c) If the surviving corporation in a merger is to be governed by the laws of any state other than this State, it shall comply with the provisions of this chapter with respect to foreign corporations if it is to transact business in this State.”

SECTION 85. Section 415-119, Hawaii Revised Statutes, is amended to read as follows:

**“[§415-119] Withdrawal of foreign corporation.** A foreign corporation authorized to transact business in this State may withdraw from the

## ACT 135

State upon procuring from the director a certificate of withdrawal. In order to procure [such] a certificate of withdrawal, [such] the foreign corporation shall deliver to the director an application for withdrawal, which shall set forth:

- (1) The name of the foreign corporation and the state or country under the laws of which it is incorporated[.];
- (2) That the foreign corporation is not transacting business in this State[.];
- (3) That the foreign corporation surrenders its authority to transact business in this State[.];
- (4) That the foreign corporation revokes the authority of its registered agent in this State to accept service of process and consents that service of process in any action, suit, or proceeding based upon any cause of action arising in this State during the time the corporation was authorized to transact business in this State may thereafter be made on [such] the corporation by service thereof on the director[.];
- (5) The dates that notice of the foreign corporation's intent to withdraw from the State was published, once in each of four successive weeks (four publications) in a newspaper of general circulation published in the State. The foreign corporation, with the approval of the director, may omit the publication of the notice if the corporation has insufficient assets to pay for the publication;
- (6) That all taxes, debts, obligations, and liabilities of the foreign corporation in the State have been paid and discharged or that adequate provision has been made therefore;
- [(5)] (7) A [post office] mailing address to which the director may mail a copy of any process against the foreign corporation that may be served on the director[.];
- [(6)] A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, and series, if any, within each class, as of the date of such application[.];
- (7) A statement of the aggregate number of issued shares, itemized by classes and series, if any, within each class, as of the date of such application[.]; and<sup>1</sup>
- (8) Such additional information as may be necessary or appropriate in order to enable the director to determine and assess any unpaid fees payable by [such] the foreign corporation as in this chapter prescribed.

The application for withdrawal shall be made on forms prescribed and furnished by the director and shall be delivered to and filed by the director [pursuant to section 415-55].”

SECTION 86. Section 415-120, Hawaii Revised Statutes, is amended to read as follows:

“[§415-120] Certificate of withdrawal. After the filing of the application of withdrawal, the director shall issue a certificate of withdrawal which shall be effective as of the date of the filing of the application of withdrawal, and [upon the issuance of such certificate of withdrawal,] the authority of the foreign corporation to transact business in this State shall cease.”

SECTION 87. Section 415-121, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-121]** **Revocation of certificate of authority.** The certificate of authority of a foreign corporation to transact business in this State may be revoked by the director upon the conditions prescribed in this section when:

- (1) The corporation has failed to file its annual report [within the time required by this chapter,] for a period of two years, or has failed to pay any fees or penalties prescribed by this chapter when they have become due and payable; or
- (2) The foreign corporation has failed to appoint and maintain a registered agent in this State as required by this chapter; or
- (3) The foreign corporation has failed, for more than thirty days after a change of its registered office or registered agent, to file in the office of the director a statement of [such] the change as required by this chapter; or
- (4) The corporation has failed to file in the office of the director any amendment to its articles of incorporation or any articles of merger within the time prescribed by this chapter; or
- (5) (4) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by [such] the foreign corporation pursuant to this chapter.

No certificate of authority of a foreign corporation shall be revoked by the director unless (1) the director shall have given the corporation not less than sixty days' notice thereof by mail addressed to its registered office in this State, and (2) the corporation [shall fail] has failed prior to revocation to file such annual report, or pay such fees or penalties, or file the required statement of change of registered agent or registered office, or file such articles of amendment or articles of merger, or correct such misrepresentation.”

SECTION 88. Section 415-122, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-122]** **Issuance of certificate of revocation.** Upon revoking any [such] certificate of authority, the director shall[:

- (1) Issue] issue a certificate of revocation [in duplicate.] that shall be filed
- (2) File one of such certificates] in the director's office[.
- (3) Mail to such corporation at its registered office in this State a notice of such revocation accompanied by the other certificate.

Upon the issuance of such certificate of revocation,], and the authority of the foreign corporation to transact business in this State shall cease.”

SECTION 89. Section 415-123, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-123]** **Application to corporations heretofore authorized to transact business in this State.** Foreign corporations which are duly authorized to transact business in this State at the time this chapter takes effect, for a purpose or purposes for which a corporation might secure such authority under this chapter, shall[, subject to the limitations set forth in their respective certificates of authority,] be entitled to all of the rights and privileges applicable to foreign corporations procuring certificates of authority to transact business in this State under this chapter, and from the time this chapter takes effect such corporations shall be subject to all of the limitations, restrictions, liabilities, and duties prescribed herein for foreign corporations procuring certificates of authority to transact business in this State under this chapter.”

## ACT 135

SECTION 90. Section 415-124, Hawaii Revised Statutes, is amended to read as follows:

**“[§415-124] Transacting business without certificate of authority.** No foreign corporation transacting business in this State without a certificate of authority shall be permitted to maintain any action, suit, or proceeding in any court of this State, until [such] the corporation shall have obtained a certificate of authority. Nor shall any action or proceeding be maintained in any court of this State by any successor or assignee of [such] the corporation on any right, claim, or demand arising out of the transaction of business by [such] the corporation in this State, until a certificate of authority shall have been obtained by [such] the corporation or by a corporation which has acquired all or substantially all of its assets.

The failure of a foreign corporation to obtain a certificate of authority to transact business in this State shall not impair the validity of any contract or act of [such] the corporation, and shall not prevent [such] the corporation from defending any action, suit, or proceeding in any court of this State.

A foreign corporation which transacts business in this State without a certificate of authority shall be liable to this State, for the years or parts thereof during which it transacted business in this State without a certificate of authority, in an amount equal to all fees which would have been imposed by this chapter upon [such] the corporation had it duly applied for and received a certificate of authority to transact business in this State as required by this chapter and thereafter filed all reports required by this chapter, plus all penalties imposed by this chapter for failure to pay [such] the fees.

The attorney general shall bring proceedings to recover all amounts due this State under the provisions of this section.”

SECTION 91. Section 415-125, Hawaii Revised Statutes, is amended to read as follows:

**“[§415-125] Annual report of domestic and foreign corporations.** Each domestic corporation[,] and each foreign corporation authorized to transact business in this State[,] shall [file,] deliver to the director, within the time prescribed by this chapter, an annual report signed by any authorized officer, or an attorney-in-fact for an officer, or if the corporation is in the hands of a receiver or trustee, by the receiver or trustee setting forth:

- (1) The name of the corporation or foreign corporation and the state or country under the laws of which it is incorporated[.];
- (2) The street address of the foreign corporation's registered office [of the foreign corporation] in this State, and the name of its registered agent in this State at such address, and[, in the case of a foreign corporation,] the address of its principal office in the state or country under the laws of which it is incorporated, and, in the case of a domestic corporation, the address of its principal office; provided that if the mailing address of the principal office differs from the street address, or where no specific street address is available, the rural route post office number or post office box designated or made available by the United States Postal Service[.];
- (3) A brief statement of the character of the business in which the corporation or foreign corporation is actually engaged in this State[.];
- (4) The names and respective residence addresses of the directors and officers of the corporation[;] and the names and respective



addresses of the directors and officers of the foreign corporation; provided that where no specific [residence] street address is available, the rural route post office number or post office box designated or made available by the United States Postal Service[.];

- (5) A statement of the aggregate number of shares which [the] a domestic corporation has authority to issue, itemized by classes and series, if any, within a class[.]; and
- (6) A statement of the aggregate number of [issued] shares issued by a domestic corporation, itemized by classes and series, if any, within each class."

SECTION 92. Section 415-126, Hawaii Revised Statutes, is amended to read as follows:

**"[~~§~~415-126] Filing of annual report of domestic and foreign corporations.** (a) [Such] The first annual report of a corporation shall be delivered to the director between [the first day of] January 1 and [the thirty-first day of] March 31 of each year in the case of a domestic corporation, or between [the first day of] January 1 and [the thirtieth day of] June 30 in the case of a foreign corporation, except that the first annual report of a corporation shall be filed between [the first day of] January 1 and [the thirty-first day of] March 31 in the case of a domestic corporation, or between [the first day of] January 1 and [the thirtieth day of] June 30 in the case of a foreign corporation, of the year next succeeding the calendar year in which its [certificate] articles of incorporation or its application for a certificate of authority, as the case may be, [was issued] was filed by the director. [Proof to the satisfaction of the director that prior to the thirty-first day of March in the case of a domestic corporation, or the thirtieth day of June in the case of a foreign corporation, such report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement.]

(b) If the director finds that [such] the report conforms to the requirements of this chapter, the director shall file the same. If the director finds that it does not so conform, the director shall return the same to the corporation for any necessary corrections, in which event the penalties hereinafter prescribed for failure to file [such] the report within the time hereinabove provided shall not apply, if [such] the<sup>1</sup> report is corrected to conform to the requirements of this chapter and returned to the director within thirty days from the date on which it was mailed to the corporation by the director.

(c) The annual report of a corporation, either domestic or foreign, filed in compliance with this section shall reflect the state of the corporation's affairs as of December 31 of the year preceding the year of filing."

SECTION 93. Section 415-128, Hawaii Revised Statutes, is amended to read as follows:

**"[~~§~~415-128] Fees for filing documents and issuing certificates.** The following fees shall be paid to the director upon the filing of corporate documents:

- (1) Articles of incorporation and affidavit of incorporation, 20 cents per \$1,000 authorized capital, \$50 minimum, \$1,000 maximum;
- (2) Certificate of increase of authorized capital stock, 20 cents per \$1,000 authorized capital increase, \$20 minimum, \$1,000 maximum;

ACT 135

- (3) Certificate of renewal or extension of corporate existence, same as the filing of articles of incorporation;
  - (4) Certificate of reduction of capital stock, \$15;
  - (5) Certificate of amendment of articles of incorporation, \$10;
  - (6) Agreement of merger or consolidation, \$50;
  - (7) Annual corporation exhibit of domestic and foreign corporations organized for profit, \$10;
  - (8) Certificate of dissolution, \$5;
  - (9) Resolution of issuance of preferred stock, \$10;
  - (10) Certification, 10 cents per page or any portion thereof;
  - (11) Restated articles of incorporation: corporations with an authorized capital of less than \$500,000, \$20; corporations with an authorized capital of \$500,000 or more, \$100;
  - (12) Good standing certificate, \$10;
  - (13) Filing any other statement or report, except an annual report, of a domestic or foreign corporation, \$25;
  - (14) Special handling fee for review of corporation documents, excluding agreement of merger or consolidation, \$40;
  - (15) Special handling fee for review of agreement of merger or consolidation, \$100;
  - (16) Special handling fee for certificates issued by the department, \$10 per certificate;
  - (17) Special handling fee for certification of documents, \$1 per page.]
- (1) Articles of incorporation, \$50;
  - (2) Articles of amendment, \$25;
  - (3) Restated articles of incorporation, \$25;
  - (4) Articles of merger or consolidation, \$100;
  - (5) Articles of merger (subsidiary corporation), \$50;
  - (6) Articles of dissolution, \$25;
  - (7) Annual report of domestic and foreign corporations organized for profit, \$15;
  - (8) Filing any other statement or report, except an annual report, of a domestic or foreign corporation, \$25;
  - (9) Application for a certificate of authority, \$50;
  - (10) Application for a certificate of withdrawal, \$25;
  - (11) Reservation of corporate name, \$10;
  - (12) Transfer of reservation of corporate name, \$10;
  - (13) Good standing certificate, \$15;
  - (14) Special handling fee for review of corporation documents, excluding articles of merger or consolidation, \$40;
  - (15) Special handling fee for review of articles of merger or consolidation, \$100;
  - (16) Special handling fee for certificates issued by the department, \$10 per certificate;
  - (17) Special handling fee for certification of documents, \$1 per page.

All special handling fees shall be credited to the special fund established [pursuant to section 416-97] for use by the department in expediting the processing of documents. At least two temporary business registration assistant I positions shall be paid out of the special fund."

SECTION 94. Section 415-129, Hawaii Revised Statutes, is amended to read as follows:

"[[§415-129]] Miscellaneous charges. The director shall charge and collect:

- (1) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, [75] 25 cents per page and [25] \$10 for the certificate and affixing the seal thereto[.]; and
- (2) At the time of any service of process on the director as [resident agent] agent for service of process of a corporation, \$25, which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.”

SECTION 95. Section 415-131, Hawaii Revised Statutes, is amended to read as follows:

“[[[415-131]] [License fees payable by foreign corporations.] Annual license mandatory; exceptions; fees. No foreign corporation except foreign insurance companies and foreign nonprofit corporations [which does not invest and use all its capital in the State] shall do or carry on business in the State unless it shall first have obtained from the director an annual license to do so. Every such corporation shall pay to the director an annual license fee of \$100. The license fee shall be assessed on the basis of the fiscal year from July 1 to June 30. The first license fee due upon qualification shall be prorated according to the month of qualification and shall be as follows:

July	\$ 100.00	January	\$50.00
August	91.67	February	41.67
September	83.33	March	33.33
October	75.00	April	25.00
November	66.67	May	16.67
December	58.33	June	8.33]
<u>July - December</u>	<u>\$ 100</u>		
<u>January - June</u>	<u>\$ 50</u>		

The director may settle and collect an account against any corporation violating this section for the amount of the license fee together with a penalty of fifty per cent for failure to pay the same[; provided that no license shall be necessary for any corporation while solely employed by the government of the United States]. The director may, for good cause shown, reduce or waive the penalty.”

SECTION 96. Section 415-135, Hawaii Revised Statutes, is amended to read as follows:

“[[[415-135]] Penalties imposed upon corporations. Each corporation, domestic or foreign, that fails or refuses to file its annual report for any year within the time prescribed by this chapter shall be subject to a forfeiture of an amount to be determined by the director not exceeding \$100 for every such violation, neglect, or failure, to be recovered by action brought in the name of the State by the director. A continuance of a failure to file the required report shall be a separate offense for each thirty days of the continuance. The director may, for good cause shown, reduce or waive the penalty imposed by this section.

[Each corporation that fails to comply with the take-over requirements imposed by this chapter shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than three years, or both.]

Each corporation domestic or foreign, that fails or refuses to answer truthfully and fully within the time prescribed by this chapter interrogatories [propounded] directed to the corporation by the director in accordance with the provisions of this chapter, or that files or shall cause to be filed with the director any articles, statement, report, application, or other document

## ACT 135

required by this chapter which is known to the corporation to be false in any material respect, shall be [deemed to be] guilty of a [misdemeanor and upon conviction thereof may be fined in any amount not exceeding \$500.] class C felony.”

SECTION 97. Section 415-136, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-136] Penalties imposed upon officers and directors.** Each officer [and] or director of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this chapter to answer truthfully and fully interrogatories [propounded] directed to the officer [and] or director of a corporation by the director in accordance with the provisions of this chapter, or who signs any articles, statement, report, application, or other document filed with the director which is known to [such] the officer or director to be false in any material respect, shall be [deemed to be] guilty of a [misdemeanor] class C felony.”

SECTION 98. Section 415-137, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-137] Interrogatories by director.** The director may [propound] direct to any corporation, domestic or foreign, subject to the provisions of this chapter, and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable the director to ascertain whether [such] the corporation has complied with all of the provisions of this chapter applicable to [such] the corporation. [Such] The interrogatories shall be answered within thirty days after the mailing thereof, or within such additional time as shall be fixed by the director, and the answers thereto shall be full and complete and shall be made in writing and under oath. If [such] the interrogatories [be] are directed to an individual, they shall be answered by the individual, and if directed to a corporation, they shall be answered by the president, vice president, secretary, or assistant secretary thereof. The director need not file any document to which [such] the interrogatories relate until [such] the interrogatories [be] are answered as [herein] provided herein, and not then if the answers thereto disclose that [such] the document is not in conformity with the provisions of this chapter. The director shall certify to the attorney general, for such action as the attorney general may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this chapter.”

SECTION 99. Section 415-138, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-138] Information disclosed by interrogatories.** Interrogatories [propounded] initiated by the director and the answers thereto shall not be open to public inspection, nor shall the director disclose any facts or information obtained therefrom except insofar as the director's official duty may require the same to be made public or in the event [such] the interrogatories or the answers thereto are required for evidence in any criminal proceedings or in any other action by this State.”

SECTION 100. Section 415-140, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-140] Appeal from director.** If the director shall fail to approve any articles of incorporation, amendment, merger, consolidation, or dissolution, or any other document required by this chapter to be approved by the director before the same shall be filed in the director's office, the

director shall[, within thirty days after the delivery thereof to the director,] give written notice of the director's disapproval to the person or corporation, domestic or foreign, delivering the same, and specifying the reasons therefor. From such disapproval [such] the person or corporation may appeal to the court of the [county] circuit in which the registered or principal office of [such] the corporation is situated, or is proposed to be[,] situated, by filing with the clerk of [such] the court a petition setting forth a copy of the articles or other document sought to be filed and a copy of the written disapproval thereof by the director; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the director or direct the director to take such action as the court may deem proper.

If the director revokes the certificate of authority to transact business in this State of any foreign corporation, pursuant to the provisions of this chapter, [such] the foreign corporation may likewise appeal to the court of the [county] circuit where the registered office of [such] the foreign corporation in this State is situated by filing with the clerk of [such] the court a petition setting forth a copy of its certificate of authority to transact business in this State and a copy of the notice of revocation [given] issued by the director; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the director or direct the director to take such action as the court may deem proper.

Appeals from all final orders and judgments entered by the court under this section in review of any ruling or decision of the director may be taken as in other civil actions."

SECTION 101. Section 415-141, Hawaii Revised Statutes, is amended to read as follows:

"**[§415-141]** **Certificates and certified copies to be received in evidence.** All certificates issued by the director in accordance with the provisions of this chapter, and all copies of documents filed in the director's office in accordance with the provisions of this chapter when certified by the director, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the director under the great seal of this State, as to the existence or nonexistence of the facts relating to corporations, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated."

SECTION 102. Section 415-144, Hawaii Revised Statutes, is amended to read as follows:

"**[§415-144]** **Waiver of notice.** Whenever any notice is required to be given to any shareholder or director of a corporation under the provisions of this chapter or under the provisions of the articles of incorporation or bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to [such] the notice, whether before or after the time stated therein, shall be equivalent to the giving of [such] the notice."

SECTION 103. Section 415-147, Hawaii Revised Statutes, is amended to read as follows:

"**[§415-147]** **Application to existing corporations.** The provisions of this chapter shall apply to all existing corporations organized under any general act of this State providing for the organization of corporations for a purpose or purposes for which a corporation might be organized under this chapter, where the power has been reserved to amend, repeal, or modify the

## ACT 135

act under which [such] the corporation was organized and where [such] the act is repealed by this chapter.”

SECTION 104. Section 415-162, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§415-162]]~~ **Effect of chapter on existing corporations.** The existence of corporations formed or existing on the date of enactment of this chapter or the voting requirements in the [charter] articles of incorporation of any such corporation shall not be affected by the enactment of this chapter nor by any change in the requirement or repeal of the laws under which they were formed or created.

Neither the repeals effected by the enactment of this chapter nor the amendment thereof shall impair or take away any existing liability, cause of action, or right against any corporation, its shareholders, directors, or officers incurred prior to the time of [such] the enactment or amendment.

Nothing in this chapter shall affect the validity of any action taken by any corporation, or shall impair or affect the validity of any provision of the articles of incorporation or bylaws adopted by any corporation, prior to the effective date of this chapter.”

SECTION 105. Section 415-171, Hawaii Revised Statutes, is amended by amending the definition of “control share acquisitions” to read as follows:

““Control share acquisition” means an acquisition of shares of an issuing public corporation resulting in beneficial ownership by an acquiring person of a new range of voting power specified in this part, but does not include an acquisition:

- (1) Before, or pursuant to an agreement entered into before the effective date of this part;
- (2) By a donee pursuant to an inter vivos gift not made to avoid this part or by a distributee as defined in chapter 560;
- (3) Pursuant to a security agreement not created to avoid this part;
- (4) Under [chapter 417],<sup>1</sup> chapter 417E, if the issuing public corporation is a party to the transaction; or
- (5) From the issuing public corporation.”

SECTION 106. Section 415A-2, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§415A-2]]~~ **Definitions.** As used in this chapter, unless the context otherwise requires, the term:

“Director” means the director of commerce and consumer affairs.

“Disqualified person” means any natural person, corporation, partnership, fiduciary, trust, association, government agency, or other entity which for any reason is or becomes ineligible under this chapter to own shares issued by a professional corporation.

[“Foreign professional corporation” means a corporation for profit organized for the purpose of rendering professional services under a law other than the law of this State.]

“Licensing authority” means the officer, board, agency, court, or other authority in this State which has the power to issue a license or other legal authorization to render a professional service.

“Professional corporation” [or “domestic professional corporation”] means a domestic professional corporation for profit subject to this chapter[, except a foreign professional corporation].

“Professional service” means any service which lawfully may be rendered only by persons licensed under chapters 442, 448, 453, 455, [458,] 459, 460, 461, 466, 471, 554-2, and 605 and may not lawfully be rendered by a corporation organized under the Hawaii Business Corporation Act, chapter 415.

“Qualified person” means [a natural person, or general partnership, which] an individual who is eligible under this chapter to own shares issued by a professional corporation.”

SECTION 107. Chapter 415A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§415A- **Incorporators.** One or more individuals may act as the incorporator or incorporators of a professional corporation by delivering articles of incorporation to the director for filing.”

SECTION 108. Section 415A-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A professional corporation may be incorporated for the purpose of rendering professional services within two or more professions, and for any purpose or purposes for which corporations may be organized under the Hawaii Business Corporation Act, chapter 415, to the extent that [such] any combination of professional purposes or of professional and business purposes is permitted by the licensing laws and rules of this State applicable to [such] the professions [and rules thereunder].”

SECTION 109. Chapter 415A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§415A- **Articles of incorporation.** (a) The articles of incorporation must set forth:

- (1) A corporate name for the corporation that satisfies the requirements of section 415A-8;
- (2) The profession or professions that the corporation shall be authorized to practice and any other purpose allowed by the licensing laws and rules of the State; and
- (3) The matters specified in section 415-54(a)(2), (4), (5), (6), (7), (11), (12), and (13).

(b) The articles of incorporation may set forth any of the matters specified in section 415-54(b).

(c) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter or chapter 415.”

SECTION 110. Chapter 415A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§415A- **Filing of documents, effective date.** The filing of documents required by this chapter to be delivered to the director for filing, and the effectiveness thereof, shall be governed by section 415-55.”

SECTION 111. Chapter 415A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§415A- **Organization of corporation.** After incorporation, the incorporator or incorporators, or the initial director or directors, as the case

## ACT 135

may be, shall complete the organization of the corporation as provided in section 415-56.”

SECTION 112. Section 415A-5, Hawaii Revised Statutes, is amended to read as follows:

“**[§415A-5] General powers.** A professional corporation shall have the powers enumerated in the Hawaii Business Corporation Act, chapter 415, except that a professional corporation may be a promoter, general partner, member, associate, or manager only of a partnership, joint venture, trust, or other enterprise engaged only in rendering professional services or carrying on business permitted by the corporation’s articles of incorporation [of the corporation].”

SECTION 113. Section 415A-6, Hawaii Revised Statutes, is amended to read as follows:

“**[§415A-6] Rendering professional services.** A professional corporation[, domestic or foreign,] may render professional services in this State only through [natural persons] individuals permitted to render such services in this State; but nothing in this chapter shall [be construed to] require [that] any person who is employed by a professional corporation to be licensed to perform services for which no license is otherwise required or [to] prohibit the rendering of professional services by a licensed [natural person] individual acting in the [person’s] licensee’s individual capacity[, notwithstanding such person may be a shareholder, director, officer, employee, or agent of a professional corporation, domestic or foreign].”

SECTION 114. Section 415A-8, Hawaii Revised Statutes, is amended to read as follows:

“**[§415A-8] Corporate name.** The name of a [domestic] professional corporation [or of a foreign professional corporation authorized to transact business in this State]:

- [(1) Shall contain the words, “professional corporation” or the abbreviation “P.C.”;]
- (1) May be any name permitted by law expressly applicable to the profession in which the corporation is engaged or by a rule or regulation of the licensing authority of the profession;
- [(2) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than the purposes contained in its articles of incorporation;
- (3) (2) Shall not be the same as, or [deceptively similar] substantially identical, to the name of any domestic corporation, partnership or trade name existing or registered under the laws of this State or any foreign corporation or partnership authorized to transact business, or trade name registered in this State, or a name the exclusive right to which is, at the time, reserved in the manner provided in the Hawaii Business Corporation Act, chapter 415, or the name of a corporation which has [in effect a registration of] registered its corporate name as provided in the Hawaii Business Corporation Act, chapter 415; except that this [provision] section shall not apply if:
  - (A) Such similarity results from the use in the corporate name of personal names of its shareholders or former shareholders or of natural persons who were associated with a predecessor entity; or



- (B) The] the applicant files with the director either of the following:
- [(i)] (A) The written consent of such other corporation or holder of a reserved or registered name to use the same or [deceptively similar] substantially identical name and one or more words are added to make [such] the name distinguishable from [such] the other name, or
  - [(ii)] (B) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to [the] use [of such] the name in this State[; and
- (4) Shall otherwise conform to any rule adopted by a licensing authority having jurisdiction of a professional service described in the articles of incorporation of such corporation].”

SECTION 115. Section 415A-9, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§415A-9]]~~ **Issuance and transfer of shares; share certificates.** (a) A professional corporation may issue shares, fractional shares, and rights or options to purchase shares only to[:

- (1) Natural persons who are] individuals authorized by law in this State or in any other state or territory of the United States or the District of Columbia to render a professional service permitted by the corporation’s articles of incorporation [of the corporation; and
- (2) General partnerships in which all the partners are qualified persons with respect to such professional corporation and in which at least one partner is authorized by law in this State to render a professional service permitted by the articles of incorporation of the corporation].

(b) Where [deemed necessary by] the licensing authority for any profession [in order] deems it necessary to prevent violations of the ethical standards of such profession, the licensing authority may by rule further restrict, condition, or abridge the authority of professional corporations to issue shares but no such rule, of itself, shall have the effect of causing a shareholder of a professional corporation at the time [such] the rule becomes effective to become a disqualified person. All shares issued in violation of this section or any rule [hereunder] under this section shall be void.

(c) A shareholder of a professional corporation may transfer or pledge shares, fractional shares, and rights or options to purchase shares of the corporation only to [natural persons and general partnerships] individuals qualified [hereunder] under this section to hold shares issued directly to them by [such] the professional corporation. Any transfer of shares in violation of this [provision] subsection shall be void; provided that nothing [herein] contained herein shall prohibit the transfer of shares of a professional corporation by operation of law or court decree[.]; and provided further that a shareholder may transfer part or all of such shares to a revocable living or inter vivos trust with respect to which such shareholder:

- (1) Retains the unilateral right of revocation;
- (2) Is the sole beneficiary during the shareholder’s lifetime; and
- (3) Is either a trustee or co-trustee or otherwise retains the right to direct the trustee in all matters related to the corporation or its shares; but nothing in such trust nor in this section shall in any

way diminish the liability of the shareholder with respect to the professional actions of the corporation.

(d) Every certificate representing shares of a professional corporation shall state conspicuously upon its face that the shares represented thereby are subject to restrictions on transfer imposed by this chapter and are subject to such further restrictions on transfer as may be imposed by the licensing authority from time to time pursuant to this chapter.”

SECTION 116. Section 415A-10, Hawaii Revised Statutes, is amended to read as follows:

“**[§415A-10] Death or disqualification of a shareholder.** (a) Upon the death of a shareholder of a professional corporation, or if a shareholder of a professional corporation becomes a disqualified person, or if shares of a professional corporation are transferred by operation of law or court decree to a disqualified person, the shares of [such] the deceased shareholder or of [such] the disqualified person may be transferred to a qualified person and, if not so transferred, shall be purchased or redeemed by the corporation to the extent of funds which may be legally made available for such purchase[.]; provided that upon the death of a sole shareholder of a professional corporation, the personal representative of the estate of the deceased sole shareholder may elect to dissolve the professional corporation, by delivering for filing verified articles of dissolution signed by the personal representative and the surviving officer of the professional corporation. If the personal representative elects to dissolve the professional corporation, the personal representative may publish a notice to creditors in lieu of a statement of intent as required by section 415-92(3).

(b) If the price for [such] the shares of the corporation is not fixed by [the] its articles of incorporation or bylaws [of the corporation] or by private agreement, the corporation within six months after such death or thirty days after such disqualification or transfer, as the case may be, shall make a written offer to pay for [such] the shares at a specified price deemed by [such] the corporation to be the fair value thereof as of the date of [such] the death, disqualification, or transfer. [Such] The offer shall be given to the personal representative of the estate of a deceased shareholder or to the disqualified shareholder or transferee and shall be accompanied by a balance sheet of the corporation, as of the latest available date and not more than twelve months prior to the making of [such] the offer, and a profit and loss statement of [such] the corporation for the twelve months' period ended on the date of [such] that balance sheet.

(c) If within thirty days after the date of [such] the written offer from the corporation the fair value of [such] the shares is agreed upon between [such] the disqualified person and the corporation, payment therefor shall be made within sixty days, or such other period as the parties may fix by agreement, after the date of [such] the offer, upon surrender of the certificate or certificates representing [such] the shares. Upon payment of the agreed value the disqualified [persons] person shall cease to have any interest in [such] the shares.

(d) If within such period of thirty days the disqualified person and the corporation do not so agree, then the corporation, within thirty days after receipt of written demand from the disqualified person given within sixty days after the date of the corporation's written offer or at its election at any time within such period of sixty days, shall file a petition in any court of competent jurisdiction in the [county in this State] circuit where the [registered] principal office of the corporation is located requesting that the fair value of [such share] the shares be found and determined. If the corporation

[shall fail to institute the proceeding as herein provided,] fails to file a petition as provided in this subsection, the disqualified person may [do so] file a petition within sixty days after delivery of [such] a written demand to the corporation. The disqualified person, wherever residing, shall be made a party to the proceeding as an action against the person's shares quasi in rem. A copy of the petition shall be served on the disqualified person, if a resident of this State, and shall be served by registered or certified mail on the disqualified person, if a nonresident. Service on nonresidents shall also be made by publication as provided by law. The jurisdiction of the court shall be plenary and exclusive. The disqualified person shall be entitled to judgment against the corporation for the amount of the fair value of the person's shares as of the date of death, disqualification, or transfer upon surrender to the corporation of the certificate or certificates representing [such] the shares. The court, in its discretion, may order that the judgment be paid in such [installment] installments as the court may determine. The court, if it so elects, may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as shall be specified in the order of their appointment or an amendment thereof.

(e) The judgment shall include an allowance for interest at such rate as the court may find to be fair and equitable in all of the circumstances, from the date of death, disqualification, or transfer.

(f) The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the corporation, but all or any part of [such] the costs and expenses may be apportioned and assessed as the court may deem equitable against the disqualified person if the court [shall find] finds that the action of [such] the disqualified person in failing to accept [such] the offer was arbitrary or vexatious or not in good faith. Such expenses shall include reasonable compensation for and reasonable expenses of the appraisers, but shall exclude the fees and expenses of counsel for and experts employed by any party; but if the fair value of the shares as determined materially exceeds the amount which the corporation offered to pay therefor, or if no offer was made, the court in its discretion may award to the disqualified person such sum as the court may determine to be reasonable compensation to any expert or experts employed by the disqualified person in the proceeding.

(g) If a purchase, redemption, or transfer of the shares of a deceased or disqualified shareholder or of a transferee who is a disqualified person is not completed within ten months after the death of the deceased shareholder or five months after the disqualification or transfer, as the case may be, the corporation shall cancel [forthwith] the shares on its books and the disqualified person shall have no further interest as a shareholder in the corporation other than the person's right to payment for [such] the shares under this section.

(h) Shares acquired by a corporation pursuant to payment of the agreed value therefor or to payment of the judgment entered therefor, as [in this section] provided[,] in this section, may be held and disposed of by [such] the corporation as in the case of other treasury shares.

(i) This section shall not [be deemed to] require the purchase of shares of a disqualified person where the period of [such] disqualification is for less than five months from the date of disqualification or transfer.

(j) Any provision regarding purchase, redemption, or transfer of shares of a professional corporation contained in the articles of incorporation, bylaws, or any private agreement shall be specifically enforceable in the courts of this State.

## ACT 135

(k) Nothing [herein] contained herein shall prevent or relieve a professional corporation from paying pension benefits or other deferred compensation for services rendered to or on behalf of a former shareholder as otherwise permitted by law.”

SECTION 117. Section 415A-11, Hawaii Revised Statutes, is amended to read as follows:

“**[§415A-11] Responsibility for professional services.** [(a) Any reference to a corporation in this section shall include both domestic and foreign corporations.

(b)] (a) Every individual who renders professional services as an employee of a professional corporation shall be liable for any negligent or wrongful act or omission in which the individual personally participates to the same extent as if the individual rendered [such] the services as a sole practitioner. An employee of a professional corporation shall not be liable for the conduct of other employees unless the employee is at fault in appointing, supervising, or cooperating with [them.] the other employees.

[(c)] (b) Every corporation whose employees perform professional services within the scope of their employment or of their apparent authority to act for the corporation shall be liable to the same extent as its employees.

[(d)] (c) Except as otherwise provided by statute, if any corporation is liable under subsection [(c),] (b), every shareholder of that corporation shall be liable to the same extent as though the shareholder were a partner in a partnership and the services giving rise to liability had been rendered on behalf of the partnership, unless the corporation has provided security for professional responsibility as provided in this subsection and the liability is satisfied to the extent contemplated by the insurance or bond which effectuates the security.

A professional corporation[, domestic or foreign,] may provide security for professional responsibility by procuring insurance or a surety bond issued by an insurance company or a combination thereof, as the corporation may elect. The minimum amount of security and requirements as to the form and coverage provided by the insurance policy or surety bond may be established for each profession by the licensing authority for the profession, and the minimum amount may be set to vary with the number of shareholders, the type of practice, or other variables deemed appropriate by the licensing authority. [If no effective determination by the licensing authority is in effect, the minimum amount of professional responsibility security for the professional corporation shall be the product of \$100,000 multiplied by the number of shareholders of the professional corporation.]”

SECTION 118. Section 415A-12, Hawaii Revised Statutes, is amended to read as follows:

“**[§415A-12] Professional relationships; privileged communications.** (a) The relationship between an individual performing professional services as an employee of a professional corporation[, domestic or foreign,] and a client or patient shall be the same as if the individual performed [such] the services as a sole practitioner.

(b) The relationship between a professional corporation[, domestic or foreign,] performing professional services and the client or patient shall be the same as between the client or patient and the individual performing the services.

(c) Any privilege applicable to communications between a person rendering professional services and the person receiving [such] the services recognized under the laws of this State, whether statutory or deriving from

common law, shall remain inviolate and shall extend to a professional corporation[, domestic or foreign,] and its employees in all cases in which it shall be applicable to communications between [a natural person] an individual rendering professional services on behalf of the corporation and the person receiving [such] the services.”

SECTION 119. Section 415A-14, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415A-14]] Directors and officers.** Not less than one-half of the directors of a professional corporation and all of the officers, other than the secretary and the treasurer, shall be qualified persons with respect to the [corporations.] corporation. At least one director shall be a resident of this State.”

SECTION 120. Section 415A-15, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415A-15]] Amendments to articles of incorporation.** A personal representative, guardian, conservator, or receiver of the estate of a shareholder of a professional corporation who holds all of the outstanding shares of the corporation may amend the articles of incorporation by signing a written consent to [such] the amendment. Articles of amendment so adopted shall be executed [in duplicate by] on behalf of the corporation by [such] the personal representative, guardian, conservator, or receiver and by [the secretary or assistant secretary of the corporation,] the surviving officer, and verified on oath by one of the persons signing [such] the articles, and shall set forth:

- (1) The name of the corporation;
- (2) The amendments so adopted[;] which shall be identified by the numerical or other designation thereof in the articles of incorporation;
- (3) The date of adoption of the amendment by the personal representative, guardian, conservator, or receiver;
- (4) The number of shares outstanding; and
- (5) The number of shares held by the personal representative, guardian, conservator, or receiver.”

SECTION 121. Section 415A-17, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415A-17]] Termination of professional activities.** If a professional corporation shall cease to render professional services, it shall amend its articles of incorporation to delete from its stated purposes the rendering of professional services and to conform to the requirements of the Hawaii Business Corporation Act, chapter 415[, regarding its corporate name]. After the amended articles of incorporation have been delivered to the director for filing, [The] the corporation then may continue in existence as a corporation under the Hawaii Business Corporation Act, chapter 415, and shall no longer be subject to this chapter.”

SECTION 122. Section 415A-18, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415A-18]] Involuntary dissolution[.]; reinstatement.** [A professional corporation may be dissolved involuntarily by a decree of the circuit court in an action filed by the attorney general when it is established that the corporation has failed to comply with any provision of this chapter applicable to it within sixty days after receipt of written notice of noncompliance.

## ACT 135

Each licensing authority in this State and the director shall certify to the attorney general, from time to time, the names of all corporations which have given cause for dissolution as provided in this chapter, together with the facts pertinent thereto. Whenever the director or any licensing authority shall certify the name of a corporation to the attorney general as having given any cause for dissolution, the director or such licensing authority, as the case may be, shall concurrently mail to the corporation at its registered office a notice that such certification has been made. Upon the receipt of such certification, the attorney general shall file an action in the name of the State against such corporation for its dissolution.]

(a) Whenever it is established that a professional corporation has failed to comply with any provision of this chapter, the director may declare the corporation dissolved.

Before the director may declare a corporation dissolved, the director shall:

- (1) Give notice of the ground or grounds for dissolution as provided in section 415-94, by mailing the notice to the professional corporation at its last known address appearing in the records of the director; and
- (2) Give notice of the intention to dissolve the corporation by publishing the notice once in each of three successive weeks (three publications) in a newspaper of general circulation published in the State.

(b) Parties of interest may petition a court of competent jurisdiction to appoint a trustee to settle the affairs of any professional corporation so dissolved. If a trustee is appointed, the trustee shall pay to the State out of any funds that may come into the trustee's hands as trustee, a sum equal to any penalty imposed under section 415-135. If a trustee is not appointed by a court of competent jurisdiction, the last directors of the dissolved corporation shall be and act as trustees for the creditors and shareholders of the dissolved professional corporation with full powers to settle its affairs.

(c) The director shall, in each case, deliver a copy of the decree of dissolution to the director of taxation and to the finance officer of each county.

(d) In each case where the director has given a professional corporation notice of intention to dissolve the corporation on the grounds that its articles of incorporation have been procured through fraud, the corporation shall be entitled to petition for an administrative hearing under chapter 91 and shall give written notice to the director thereof, before the director may declare the corporation dissolved under subsection (a) of this section.

(e) Within ninety days after the involuntary dissolution of a professional corporation under this section, the corporation may be reinstated by the director upon a written application executed by any two officers of the corporation setting forth such information as the director may require, and the payment of all delinquent fees, penalties, assessments, taxes, costs of involuntary dissolution, and the filing of all reports due and unfilled. Within the ninety-day period, should the name of the professional corporation, or a name substantially identical thereto be registered or reserved by another corporation or partnership, or should the name or a name substantially identical thereto be registered as a trade name, then reinstatement shall be allowed only upon the registration of a new name by the involuntarily dissolved professional corporation pursuant to the amendment provisions of this chapter.

(f) A professional corporation whose articles of incorporation have expired shall cease to exist by operation of law."

SECTION 123. Section 415A-19, Hawaii Revised Statutes, is repealed.

SECTION 124. Section 415A-20, Hawaii Revised Statutes, is repealed.

SECTION 125. Section 415A-21, Hawaii Revised Statutes, is repealed.

SECTION 126. Section 415A-22, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§415A-22**~~]]~~ **Annual report of [domestic and foreign] professional corporations.** ~~[(a)]~~ The annual report of each [domestic] professional corporation[, and each foreign professional corporation authorized to transact business in this State, filed with] shall be delivered to the director for filing pursuant to the Hawaii Business Corporation Act, chapter 415, and shall include a statement that all of the shareholders, not less than one-half of the directors, and all of the officers other than the secretary and treasurer of the corporation are qualified persons with respect to the corporation.

~~[(b)]~~ Financial information contained in the annual report of a professional corporation, other than the amount of stated capital of the corporation, shall not be open to public inspection nor shall the licensing authority disclose any facts or information obtained therefrom except insofar as its official duty may require the same to be made public or in the event such information is required for evidence in any criminal proceedings or in any other action by this State.]”

SECTION 127. Section 415A-23, Hawaii Revised Statutes, is repealed.

SECTION 128. Section 415A-24, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§415A-24**~~]]~~ **Interrogatories by [licensing authority.] director.** ~~[(a)]~~ Each licensing authority of this State] The director may [propound] direct to any professional corporation[, domestic or foreign,] organized to practice a profession within the jurisdiction of [such licensing authority,] the director and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable the [licensing authority] director to ascertain whether [such] the corporation has complied with all of the provisions of this chapter applicable to [such] the corporation. [Such] The interrogatories shall be answered within thirty days after the mailing thereof, or within such additional time as shall be fixed by the [licensing authority,] director, and the answers thereto shall be full and complete and shall be made in writing and under oath. If [such] the interrogatories [be] are directed to an individual they shall be answered by the individual, and if directed to a professional corporation they shall be answered by the president, vice president, secretary, or assistant secretary thereof. The [licensing authority] director shall certify to the attorney general, for [such] any action [as] the attorney general may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this chapter.

~~[(b)]~~ Interrogatories [propounded] directed to an individual or a professional corporation by [a licensing authority] the director and the answers thereto shall not be open to public inspection nor shall the [licensing authority] director disclose any facts or information obtained therefrom except insofar as its official duty may require the same to be made public or

## ACT 135

in the event such interrogatories or the answers thereto are required for evidence in any criminal proceeding or any other action by this State.”

SECTION 129. Section 415A-25, Hawaii Revised Statutes, is amended to read as follows:

“**[§415A-25] Penalties.** (a) Each professional corporation[, domestic or foreign,] that fails or refuses to answer truthfully within the time prescribed by this chapter interrogatories [propounded] directed to the professional corporation in accordance with this chapter by the [licensing authority having jurisdiction of a type of professional service described in the articles of incorporation of such corporation,] director shall be [deemed to be] guilty of a [misdemeanor.] class C felony.

(b) Each officer [and] or director of a professional corporation[, domestic or foreign,] who fails or refuses within the time prescribed by this chapter to answer truthfully and fully interrogatories [propounded] directed to [such] that officer or director in accordance with this chapter by the [licensing authority having jurisdiction of a type of professional service described in the articles of incorporation of such corporation,] director, or who signs any articles, statement, report, application, or other document filed with [such] the [licensing authority] director which is known to [such] that officer or director to be false in any material respect, shall be deemed to be guilty of a [misdemeanor.] class C felony.”

SECTION 130. Section 415A-26, Hawaii Revised Statutes, is repealed.

SECTION 131. Section 415A-27, Hawaii Revised Statutes, is amended to read as follows:

“**[§415A-27] Application of business corporation act.** The provisions of the Hawaii Business Corporation Act, chapter 415, shall apply to professional corporations, [domestic or foreign,] except to the extent [such] that the provisions are inconsistent with this chapter.”

SECTION 132. Section 415A-28, Hawaii Revised Statutes, is amended to read as follows:

“**[§415A-28] Applications and<sup>1</sup> existing corporations.** (a) This chapter shall apply to all existing professional corporations organized under any general act of this State which is repealed by this chapter. [Every such existing corporation which shall be required to amend its corporate name or purposes to comply with this chapter shall deliver duly executed duplicate originals of articles of amendment or restated articles of incorporation containing such amendments to the director within ninety days after July 1, 1987.]

(b) Any corporation organized under any act of this State which is not repealed hereby may become subject to the provisions of this chapter by delivering to the director duly executed [duplicate originals of] articles of amendment [or restated articles of incorporation] stating that the corporation elects to become subject to this chapter and containing [such] the amendment of its corporate name or purposes as may be required to comply with this chapter.

(c) This chapter shall not apply to any corporation now in existence or hereafter organized under any act of this State which is not repealed hereby unless [such] the corporation voluntarily becomes subject to this chapter as [herein] provided[,] in this chapter, and nothing contained in this chapter shall alter or affect any existing or future right or privilege permitting or not



prohibiting performance of professional services through the use of any other form of business organization. Nothing in this chapter shall affect the validity of any action taken by any corporation, or shall impair or affect the validity of any provision of the articles of incorporation or bylaws adopted by any corporation[,] prior to July 1, 1987.”

SECTION 133. Section 415B-2, Hawaii Revised Statutes, is amended by amending the definition of “director” to read as follows:

“Director” means the director of the department of commerce and consumer affairs.”

SECTION 134. Section 415B-6, Hawaii Revised Statutes, is amended by amending subsections (a), (e) and (g) to read as follows:

“(a) As used in this section, unless the context otherwise requires:

“Agent” means any person who is or was a director, officer, employee, or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, or was a director, officer, employee, or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of [such] the predecessor corporation.

“Expenses” include, without limitation, attorney’s fees and any expenses of a completed action or proceeding, whether civil, criminal, administrative, or investigative.

(e) Any indemnification under subsection (b) or (c) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in subsection (b) or (c). [Such] The determination shall be made (1) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to [such] the proceeding; or (2) if [such] a quorum is not obtainable, by independent legal counsel in a written opinion; or (3) by the [shareholder;] members; or (4) by the court in which the proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not the application by the agent, attorney, or other person is opposed by the corporation.

(g) The indemnification provided by this section [shall] is not [be deemed] exclusive of any other rights to which those indemnification<sup>1</sup> may be entitled under any bylaw, agreement, vote of [shareholders,] the members, or disinterested directors or otherwise, both as to action in a person’s official capacity and as to action in another capacity while holding office, and shall continue as to a person who has ceased to be an agent and shall inure to the benefit of the heirs and personal representatives of such a person.”

SECTION 135. Section 415B-7, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§415B-7]]~~ Corporate name. The corporate name[:

- (1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than the purposes contained in its articles of incorporation;
- (2) Shall shall not be the same as, or [deceptively similar] substantially identical to, the name of any domestic corporation, partnership, or trade name existing or registered under the laws of this State or any foreign corporation[, or partnership[, or trade

name] authorized to transact business or trade name registered in this State, or a name the exclusive right to which is, at the time reserved in the manner provided under the laws of this State,<sup>1</sup> except that this provision shall not apply if the applicant [files with] delivers to<sup>1</sup> the director for filing either of the following:

- (A) (1) The written consent of [such] the other corporation or holder of a reserved or registered name to use the same or [deceptively similar] substantially identical name and one or more words are added to make [such] the name distinguishable from [such] the other name, or
- (B) (2) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of [such] the name in this State."

SECTION 136. Section 415B-8, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§415B-8]]~~ **Reserved name.** The exclusive right to the use of a corporate name may be reserved by:

- (1) Any person intending to organize a corporation under this chapter[.];
- (2) Any domestic corporation intending to change its name[.];
- (3) Any foreign corporation intending to make application for a certificate of authority to [transact business] conduct its affairs<sup>1</sup> in this State[.];
- (4) Any foreign corporation authorized to [transact business] conduct its affairs<sup>1</sup> in this State and intending to change its name[.];  
or
- (5) Any person intending to organize a foreign corporation and intending to have [such] the corporation make application for a certificate of authority to [transact business] conduct its affairs in this State.

The reservation shall be made by [filing with] delivering to the director for filing an application to reserve a specified corporate name, executed by the applicant. If the director finds that the name is available for corporate use, the director shall reserve the name for the exclusive use to the applicant for a period of one hundred twenty days.

The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the director a notice of [such] the transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee."

SECTION 137. Section 415B-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Service of any notice or process authorized by law issued against any corporation, whether domestic or foreign, by any court, judicial or administrative officer, or board, may be made in the manner provided by law upon any officer or director of the corporation who is found within the jurisdiction of the court, officer, or board; and in the event of failure to find any such officer or director, upon the manager or superintendent of the corporation or any person who is found in charge of the property, business, or office of the corporation within the jurisdiction.

If (1) no officer, director, manager, superintendent, or other person in charge of the property, business, or office of the corporation can be found within the State, and (2) the corporation, if a foreign corporation, has

neglected to [file with] deliver to the director the name of a person upon whom legal notice and process from the courts of the State may be served or if the person so named is not found within the State, then service may be made upon the corporation by [filing with] delivering to the director[,] for filing, or, in the director's absence [with], to the deputy director, a copy of the notice or process, certified to be such under the seal of any court of record, or by the chairperson or president of the board, or by the officer issuing the same. The director or deputy director so served shall [immediately] as soon as practicable but not later than thirty days after the filing notify the defendant corporation by certified mail of the service. [The filing] Delivery shall [be deemed] constitute service upon the corporation forty-five days after [the filing,] delivery, and shall authorize the court, board, or officer to proceed in all respects as in the case of service personally made upon an individual."

SECTION 138. Section 415B-10, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§415B-10]]~~ **Filing of document and effective date.** (a) Any document required to be delivered to the director for filing pursuant to this chapter shall be:

- (1) [Executed] Certified and executed by:
  - (A) A person intending to organize a corporation or an incorporator, if the corporation has not been organized; or
  - (B) Two persons who are officers of the corporation, if the corporation has been organized; [or
  - (C) A majority of incorporators with respect to articles of dissolution delivered pursuant to section 415B-94.]; and<sup>1</sup>
- (2) Delivered to the director.

(b) If the director finds [such] the document sets forth the information required by this chapter, the director shall:

- (1) [Endorse] Stamp the word "Filed" and the [hour, minute, month, day, and year] date of the delivery thereof; and
- (2) File the document in the director's office.

(c) The director, however, shall not file a document required by this chapter unless all fees prescribed by this chapter have been paid with respect to [such] the document.

(d) Upon the filing of a document, the document shall become effective as of delivery. Articles of merger or consolidation may become effective at a [or at such] later time and date, and articles of dissolution may become effective on a later date, as set forth in the instrument, but not more than thirty days after being filed.

[(e) Any person knowingly making a false statement in any document to be filed with the director shall be guilty of a violation.]"

SECTION 139. Section 415B-11, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§415B-11]]~~ **Annual report of domestic and foreign corporations.** Each domestic corporation or foreign corporation authorized to conduct affairs in this State[,] shall [file,] deliver to the director for filing, within the time prescribed by this chapter, an annual report setting forth:

- (1) The name of the corporation or foreign corporation and the state or country under the laws of which it is incorporated;
- (2) The address of the foreign corporation's registered office in this State, the name of the foreign corporation's registered agent in this State at [such] that address, and[, in the case of a foreign

corporation,] the mailing address of its principal office in the state or country under the laws of which it is incorporated, and in the case of domestic corporation, the address of the corporation's principal office and the mailing address of the principal office if it differs; provided that where no specific street address is available, the rural route post office number or post office box designated or made available by the United States Postal Service;

- (3) A brief statement of the character of the affairs which the corporation is actually conducting, or, in the case of a foreign corporation, which the corporation is actually conducting in this State; and
- (4) The names and respective addresses of the directors and officers of the foreign corporation[.], and in the case of a domestic corporation the names and residence addresses of the directors and officers of a domestic corporation.

The annual report shall be made on forms prescribed and furnished by the director[, and the information therein contained shall be given as of the date of the execution of the report]. It shall be executed on behalf of the corporation by [its president, a vice-president, secretary, assistant secretary, or treasurer,] any authorized officer or an attorney-in-fact for an officer of the corporation or, if the corporation is in the hands of a receiver or trustee, by [such] the receiver or trustee."

SECTION 140. Section 415B-12, Hawaii Revised Statutes, is amended to read as follows:

**“[[[§415B-12]]] Filing of annual report of domestic and foreign corporations.** (a) [Such] The annual report of a corporation shall be delivered to the director for filing between [the first day of] January 1 and [the thirty-first day of] March 31 of each year in the case of a domestic corporation, or between [the first day of] January 1 and [the thirtieth day of] June 30 in the case of a foreign corporation, except that the first annual report of a corporation shall be filed between [the first day of] January 1 and [the thirty-first day of] March 31 in the case of a domestic corporation, or between [the first day of] January 1 and [the thirtieth day of] June 30 in the case of a foreign corporation of the year next succeeding the calendar year in which its [certificate] articles of incorporation or its certificate of authority, as the case may be, was issued by the director. [Proof to the satisfaction of the director that prior to the thirty-first day of March in the case of a domestic corporation, or the thirtieth day of June in the case of a foreign corporation, such report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement.]

(b) If the director finds that [such] the report conforms to the requirements of this chapter, the director shall file the report. If the director finds that [it] the report does not so conform, the director shall return [the report] it to the corporation for any necessary corrections, in which event the penalties prescribed in this chapter for failure to file [such] the report within the time provided shall not apply[.] if the report is corrected to conform to the requirements of this chapter and returned to the director within thirty days from the date on which it was mailed to the corporation by the director.

(c) The annual report of a corporation, either domestic or foreign, filed in compliance with this section shall reflect the state of affairs of the corporation as of December 31 of the year preceding the year of filing.”

SECTION 141. Section 415B-13, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415B-13]] Defense of ultra vires.** No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid because the corporation was without capacity or power to do [such] the act or to make or receive [such] the conveyance or transfer, but such lack of capacity or power may be asserted:

- (1) In a proceeding by a member or a director against the corporation to enjoin the doing or continuation of unauthorized acts, or the transfer of a<sup>1</sup> real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed pursuant to any contract to which the corporation is a party, if all of the parties to the contract are parties to the proceeding, and if the court deems the same to be equitable, the court may set aside and enjoin the performance of [such] the contract, and in so doing may [allow] award to the corporation or the other parties to the contract, as the case may be, compensation for the loss damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of [such] the contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained; or
- (2) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through members in a representative action, against the officers or directors of the corporation for exceeding their authority.”

SECTION 142. Section 415B-14, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415B-14]] Greater voting requirements.** With respect to any action to be taken by the members or board of directors of a corporation, whenever the articles of incorporation [or bylaws] require the vote or concurrence of a greater proportion of the board of directors or members or any class of members than required by this chapter, the articles of incorporation [or bylaws] shall control.”

SECTION 143. Section 415B-16, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415B-16]] Action by members or the board of directors without a meeting.** Any action required or permitted by this chapter to be taken at a meeting of the members or the board of directors of a corporation may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the members or directors, as the case may be, entitled to vote on the subject matter of the meeting. Such consent shall have the force and effect of a unanimous vote and may be stated as such in any articles or document [filed with] which is delivered to the director for filing pursuant to this chapter.”

SECTION 144. Section 415B-31, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415B-31]] Members.** A corporation may have one or more classes of members or may have no members. If the corporation has one or more classes of members, the designation of such class or classes, the manner of

## ACT 135

election or appointment, and the qualifications and rights of the members of each class may be set forth in the articles of incorporation or the bylaws or determined by the board of directors. If the corporation has no members, that fact shall be set forth in the articles of incorporation [or the bylaws]. A corporation may issue certificates evidencing membership therein.

The directors, officers, employees, and members of the corporation shall not be liable for the corporation's obligations."

SECTION 145. Section 415B-32, Hawaii Revised Statutes, is amended to read as follows:

"**[§415B-32] Meetings of members.** A meeting of the members shall be held at least once each year following the year of incorporation, unless this is dispensed with pursuant to unanimous written consent under section 415B-16. Meetings of members may be held at such place within or without the State as may be stated in or fixed in accordance with the bylaws. If no other place is stated or so fixed, meetings shall be held at the principal office of the corporation within this State. Unless otherwise provided in the articles of incorporation or bylaws or fixed in accordance with the bylaws, the annual meeting of the members for the consideration of business as may come before the meeting, shall be held on the first Monday of April in each year, if not a legal holiday, and if a legal holiday, on the next calendar day following.

Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

Special meetings of the members may be called by the president or by the board of directors. Special meetings of the members may also be called by such other officers or persons or number or proportion of members as may be provided in the articles of incorporation or bylaws. In the absence of a provision fixing the number or proportion of members entitled to call a meeting, a special meeting of members may be called by members having one-twentieth<sup>1</sup> of the votes entitled to be cast at [such] the meeting."

SECTION 146. Section 415B-33, Hawaii Revised Statutes, is amended to read as follows:

"**[§415B-33] Notice of members' meetings.** Unless otherwise provided in the articles of incorporation or the bylaws, written notice stating the place, day, and hour of the meeting and, in case of a special meeting, any purpose for which the meeting is called, shall be delivered not less than ten days<sup>1</sup> nor more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the president, secretary, or other officers or any person calling the meeting, to each member entitled to vote at [such] the meeting. If mailed, [such] the notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at the member's address as it appears on the records of the corporation, with postage thereon prepaid."

SECTION 147. Section 415B-34, Hawaii Revised Statutes, is amended to read as follows:

"**[§415B-34] Articles of incorporation.** One or more [persons] individuals may organize a corporation by signing and delivering articles of incorporation [in duplicate] to the director pursuant to section 415B-10, which shall set forth:

- (1) The name of the corporation;
- (2) The period of the corporation's duration, which may be perpetual;

- (3) The purpose or purposes for which the corporation is organized;
- (4) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision for the distribution of assets on dissolution or final liquidation;
- (5) The [street] address of the corporation's initial [registered] office; provided that where no specific street address is available, the mailing address, which may be a rural route post office or post office box designated or made available by the United States Postal Service may be listed, [and the name of its initial registered agent at such address];
- (6) The number of directors constituting the initial board of directors and the names and residence addresses of the [persons] individuals who are to serve as the initial directors and initial officers; and
- (7) [The name and address of each incorporator.] If a corporation has no members, that fact shall be set forth.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter. [Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be<sup>1</sup> the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.]”

SECTION 148. Section 415B-35, Hawaii Revised Statutes, is amended to read as follows:

“**[§415B-35] Effect of filing of articles of incorporation.** Upon the effective date of the articles of incorporation, the corporate existence shall begin, and [such] the articles shall be prima facie evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this chapter, except as against the State in a proceeding to cancel or revoke the articles of incorporation or for involuntary dissolution of the corporation.”

SECTION 149. Section 415B-36, Hawaii Revised Statutes, is amended to read as follows:

“**[§415B-36] Right to amend articles of incorporation.** A corporation may amend its articles of incorporation from time to time, in any and in as many respects as may be desired, so long as its articles of incorporation as amended contain only [such] provisions which might be lawfully contained in original articles of incorporation at the time of making [such] the amendment.”

SECTION 150. Section 415B-37, Hawaii Revised Statutes, is amended to read as follows:

“**[§415B-37] Procedure to amend articles of incorporation.** Amendments to the articles of incorporation shall be made in the following manner:

- (1) If any members are entitled to vote on an amendment, the board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at an annual or special meeting of [any such] the members. Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member

entitled to vote at [such] the meeting within the time and in the manner provided in this chapter for the giving of notice of meetings to members. The proposed amendment shall be adopted upon receiving at least two-thirds of the votes which members present at [such] the meeting or represented by proxy are entitled to cast.

- (2) If there are no members or no members entitled to vote thereon, an amendment shall be adopted at a meeting of the board of directors upon its receiving the vote of a majority of the directors in office.

Any number of amendments may be submitted and voted upon at any one meeting.”

SECTION 151. Section 415B-38, Hawaii Revised Statutes, is amended to read as follows:

“**[[[§415B-38]] Articles of amendment.** The articles of amendment shall be [filed pursuant to section 415B-10] delivered to the director for filing and shall set forth:

- (1) The name of the corporation;
- (2) The amendment so adopted[;] which shall be identified by the numerical on<sup>1</sup> other designation thereof in the articles of incorporation;
- (3) If there are members entitled to vote on the amendment, (A) a statement setting forth the date of the meeting of members at which the amendment was adopted, that a quorum was present at [such] the meeting, and that [such] the amendment received at least two-thirds of the votes which members present at [such] the meeting or represent<sup>1</sup> by proxy were entitled to cast, or (B) a statement that [such] the amendment was adopted by a consent in writing signed by all members entitled to vote thereon; and
- (4) If there are no members or no members entitled to vote on the amendment, a statement of [such] that fact, the date of the meeting of the board of directors at which the amendment was adopted, and a statement of the fact that [such] the amendment received the vote of a majority of the directors in office.”

SECTION 152. Section 415B-42, Hawaii Revised Statutes, is amended to read as follows:

“**[[[§415B-42]] [Organization] Organizational meetings.** After the effective [time and] date of the articles of incorporation, an [organization] organizational meeting of the board of directors named in the articles of incorporation shall be held at the call of a majority of the [incorporators] members or directors as stated in the articles for the purpose of adopting bylaws, and transacting any other business. The [incorporators] directors or members calling the meeting shall give at least three days’ notice of the time and place of the meeting to each director.

A first meeting of the members may be held at the call of at least a majority of the directors, upon at least three days’ notice for any purpose stated in the notice.”

SECTION 153. Section 415B-43, Hawaii Revised Statutes, amended to read as follows:

“**[[[§415B-43]] Voting.** The right of the members, or any class or classes of members, to vote may be limited, enlarged, or denied to the extent specified in the articles of incorporation [or the bylaws or as determined by



the board of directors]. Unless so limited, enlarged, or denied, each member, regardless of class, shall be entitled to one vote on each matter submitted to a vote of members.

A member entitled to vote may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by proxy executed in writing by the member or by the member's duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy. Where directors or officers are to be elected by members, the bylaws or board of directors may provide that [such] the elections may be conducted by mail.

The articles of incorporation or the bylaws may provide that in all elections for directors, every member entitled to vote shall have the right to cumulate the member's vote and give one candidate a number of votes equal to the candidate's<sup>1</sup> vote multiplied by the number of directors to be elected, or by distributing [such] the votes on the same principle among any number of [such] the candidates.

If a corporation has no members or its members have no right to vote, the directors shall have the sole voting power."

SECTION 154. Section 415B-46, Hawaii Revised Statutes, is amended to read as follows:

**"[§415B-46]] Shares of stock and dividends prohibited; compensation; distribution.** A corporation under this chapter shall not authorize or issue shares of stock[.] except for limited equity housing cooperatives. No dividend shall be paid and no part of the income or profit of a corporation shall be distributed to its members, directors, or officers. A corporation may pay compensation in a reasonable amount to its members, directors, or officers or<sup>1</sup> services rendered, may confer benefits upon its members in conformity with its purposes, and upon dissolution or final liquidation may make distributions to its members as permitted by this chapter, and no such payment, benefit, or distribution shall be deemed to be a dividend or a distribution of income or profit."

SECTION 155. Section 415B-62, Hawaii Revised Statutes, is amended to read as follows:

**"[§415B-62]] Number and election of directors.** The number of directors of a corporation shall be not less than three. Subject to such limitation, the number of directors shall be fixed by the bylaws, except that if authorized by the articles of incorporation or by<sup>1</sup> the bylaws, the number may be fixed by the members at the annual meeting or at any other meeting properly called for such purpose, and except as to the number of the first board of directors which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to [the bylaws] the articles of incorporation or, if authorized by the [bylaws or] articles of incorporation, by the members[, unless the articles of incorporation provide that a change in the number of directors shall be made only by the<sup>1</sup> amendment of the articles of incorporation]. No decrease in number shall have the effect of shortening the term of any incumbent director. In the absence of a [bylaw or] membership resolution fixing the number of directors, the number shall be the same as that stated in the articles of incorporation.

The directors constituting the first board of directors shall be named in the articles of incorporation and shall hold office until the first annual election of directors or for such other period as may be specified in the articles of incorporation or the bylaws. Thereafter, directors shall be elected

## ACT 135

by the members or elected or appointed in the manner and for the terms provided in the articles of incorporation or the bylaws. [In the absence of a provision fixing the term of office, the term of office of a director shall be one year.]

Directors may be divided into classes and the terms of office of the several classes need not be uniform. Each director shall hold office for the term to which the director is elected or appointed and until a successor is elected or appointed and qualified. In the absence of a provision fixing the term of office, the term of office of a director shall be one year.

A director may be removed from office pursuant to any procedure therefor provided in the articles on<sup>1</sup> incorporation or bylaws.”

SECTION 156. Section 415B-64, Hawaii Revised Statutes, is amended to read as follows:

**“[§415B-64] Place and notice of directors’ meetings.** Meetings of the board of directors, regular or special, may be held either within or without this State, and upon such notice as the bylaws prescribe. Attendance of a director at any meeting shall constitute a waiver of notice of [such] the meeting except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need by<sup>1</sup> specified in the notice or waiver of notice of [such] the meeting.

Unless prohibited by the articles of incorporation[, association, charter,] or bylaws, and subject to provisions therein relating to notice, members of the board of directors or any committee designated thereby may participate in a meeting of [such] the board or committee by means of a conference telephone or similar communication equipment by means of which all persons participating in the meeting can simultaneously hear each other. Participation by [such] this means shall constitute presence in person at a meeting.”

SECTION 157. Section 415B-65, Hawaii Revised Statutes, is amended to read as follows:

**“[§415B-65] Vacancies.** Any vacancy occurring in the board of directors and any directorship to be filled by reason of an increase in the number of directors may be filled by the affirmative vote of a majority of the remaining directors, even if [such] the majority is less than a quorum of the board of directors, unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner, in which case [such] that provision shall control.

A director elected or appointed to fill a vacancy shall be elected or appointed, as the case may be, for the unexpired term of the director’s predecessor in office.

Any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors for a term of office continuing only until the next election of directors.

If a corporation has no members other than the directors and all of the directors resign, die, or become incompetent, any circuit judge of the circuit where the corporation has its principal office or any circuit judge of the first circuit may appoint directors of the corporation upon petition of a creditor of the corporation, the personal representative of a deceased director, or the guardian or conservator of an incompetent director.”

SECTION 158. Section 415B-66, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415B-66]] Committees.** If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the directors in office, may designate and appoint one or more committees, which committees, to the extent provided in [such] the resolution, in the articles of incorporation, or in the bylaws of the corporation, shall have and exercise all the authority of the board of directors, except that no such committee shall have the authority of the board of directors in reference to:

- (1) Amending, altering, or repealing the bylaws;
- (2) Electing, appointing, or removing any member of any such committee or any director or officer of the corporation;
- (3) Amending the articles of incorporation, restating articles of incorporation, adopting a plan of merger, or adopting a plan of consolidation with another corporation;
- (4) Authorizing the sale, lease, exchange, or mortgage of all of<sup>1</sup> substantially all of the property and assets of the corporation;
- (5) Authorizing the voluntary dissolution of the corporation of<sup>1</sup> revoking proceedings therefor;
- (6) Adopting a plan for the distribution of the assets of the corporation; or
- (7) Amending, altering, or repealing any resolution of the board of directors which by its terms provides that it shall not be amended, altered, or repealed by [such] the committee.

Nothing in paragraphs (1) to (7) shall prohibit any committee, if properly authorized by the board of directors and not prohibited by the bylaws, from engaging in any sale, lease, exchange, mortgage, pledge, or distribution of assets of the corporation in the normal course of the corporation's business.

The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director of any responsibility imposed upon the board or [such] the director by law.”

SECTION 159. Section 415B-67, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A provisional director shall be an impartial person, who is not a member, director, officer, employee, or creditor of the corporation, or related by consanguinity or affinity within the third degree according to the common law to any other director of the corporation or to any judge of the court by which [such] the provisional director is appointed. A provisional director shall have all of the rights and powers of a director until the deadlock in the board or among the members is broken or until [such] the provisional director is removed by order of the court or by approval of members holding a majority of the voting power. A provisional director shall be entitled to compensation which shall be fixed by the court unless otherwise agreed with the corporation.”

SECTION 160. Section 415B-68, Hawaii Revised Statutes is amended to read as follows:

**“[[§415B-68]] Officers.** The officers of a corporation shall consist of a president, a<sup>1</sup> vice-president, a secretary, a treasurer, and such other officers and assistant officers as may be deemed necessary[,] and as prescribed in the articles of incorporation [each of whom]. Each officer shall be elected or

## ACT 135

appointed at such time and in such manner and for such terms as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. If the [bylaws] articles of incorporation so provide, any two or more offices may be held by the same person; provided the corporation shall have at least two persons as officers.

The articles of incorporation or the bylaws may provide that any one or more officers of the corporation shall be ex-officio members of the board of directors.

The officers of a corporation may be designated by such additional titles as may be provided in the articles of incorporation [or the by<sup>1</sup> bylaws].

All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws."

SECTION 161. Section 415B-69, Hawaii Revised Statutes, is amended to read as follows:

**"[§415B-69] Removal of officers.** Any officer or agent elected or appointed may be removed by the persons authorized to elect or appoint [such] the officer or agent whenever, in their judgment, the best interests of the corporation will be served thereby. The removal of an officer or agent shall be without prejudice to the contract rights, if any, of the officer or agent so removed. Election or appointment of an officer or agent shall not of itself create contract rights."

SECTION 162. Section 415B-70, Hawaii Revised Statutes, is amended to read as follows:

**"[§415B-70] Loans to directors and officers prohibited.** No loans shall be made by a corporation to its directors or officers. Any director or officer who assents to or participates in the making of [any such] a loan shall be liable to the corporation for the amount of [such] the loan until it is repaid. For the purposes of this section, any director who votes against the making of [such] a loan shall be deemed not to have assented to or participated in the making of [such] the loan."

SECTION 163. Section 415B-81, Hawaii Revised Statutes, is amended to read as follows:

**"[§415B-81] Procedure for merger.** Any two or more domestic corporations may merge into one of [such] the corporations pursuant to a plan of merger approved in the manner provided in this chapter.

Each corporation shall adopt a plan of merger setting forth:

- (1) The names and the jurisdictions of incorporation of the corporations proposing to merge and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation;
- (2) The terms and conditions of the proposed merger;
- (3) A statement of the proposed articles of incorporation of the surviving corporation, as amended, to effect [such] the proposed merger; and
- (4) Any other necessary or desirable provisions with respect to the proposed merger."

SECTION 164. Section 415B-83, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415B-83]] Approval of merger or consolidation.** A plan of merger or consolidation shall be adopted in the following manner:

- (1) If the members of any merging or consolidating corporation are entitled to vote thereon, the board of directors of [such] the corporation shall adopt a resolution approving the proposed plan and directing that it be submitted to a vote at an annual or special meeting of [such] the members. Written notice setting forth the proposed plan or a summary thereof shall be given to each member entitled to vote at [such] the meeting within the time and in the manner provided in this chapter for the giving<sup>1</sup> notice of meetings of members. The proposed plan shall be adopted upon receiving at least two-thirds of the votes which members present at [each such] the meeting or represented by proxy are entitled to cast; and
- (2) If any merging or consolidating corporation has no members, or no members entitled to vote thereon, a plan of merger or consolidation shall be adopted at a meeting of the board of directors of [such] the corporation upon receiving the vote of a majority of the directors in office.

After [such] the approval and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to any provision set forth in the plan of merger or consolidation.”

SECTION 165. Section 415B-84, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415B-84]] Articles of merger or consolidation.** The articles of merger or articles of consolidation shall be delivered to the director for filing and [filed pursuant to section 415B-10 and] shall set forth:

- (1) The plan of merger or the plan of consolidation[:], including a statement of the jurisdiction of incorporation if a foreign corporation is involved;
- (2) If the members of any merging or consolidating corporation are entitled to vote thereon, then as to each such corporation (A) a statement setting forth the date of the meeting of members at which the plan was adopted, that a quorum was present at [such] the meeting, and that [such] the plan received at least two-thirds of the votes which members present at [such] the meeting or represented by proxy were entitled to cast, or (B) a statement that [such] the amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto; and
- (3) If any merging or consolidating corporation has no members, or no members entitled to vote thereon, then as to each such corporation a statement of [such] this fact, the date of the meeting of the board of directors at which the plan of merger or consolidation was adopted, and a statement of the fact that [such] the plan received the vote of a majority of the directors in office.

[The] After the articles of merger or articles of consolidation have been delivered to the director and filed, the certificate of merger or certificate of consolidation, together with the duplicate original of the articles of merger or articles of consolidation affixed thereto by the director, shall be

returned to the surviving or new corporation, as the case may be, or its representative.] shall be issued by the director.”

SECTION 166. Section 415B-85, Hawaii Revised Statutes, is amended to read as follows:

“[[§415B-85]] Effect of merger or consolidation. Upon compliance with section 415B-84, the merger or consolidation shall [be effected] become effective upon the time and date of filing the articles of merger or consolidation, or upon a time and date subsequent to the filing as set forth in the articles, but not more than thirty days after being filed and:

- (1) The several corporations party to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation;
- (2) The separate existence of all corporations [parties] party to the plan of merger or consolidation, except the surviving or new corporation, shall cease;
- (3) [Such] The surviving or new corporation shall have all of the rights, privileges, immunities, and powers and shall be subject to all of the duties and liabilities of a corporation organized under this chapter;
- (4) [Such] The surviving or new corporation, thereupon and thereafter, shall possess all of the rights, privileges, immunities, and franchises, public and private, of each of the merging or consolidating corporations. Any property, whether real, personal, or mixed[;], any debt due on account, any other chose in action, and any other interest of or belonging to or due to each of the corporations so merged or consolidated, shall be [taken and deemed to be] transferred to and vested in the surviving or new corporation, as the case may be, without further act or deed. The title to any real estate, or any interest therein, vested in any surviving or new corporation shall not revert or be in any way impaired by reason of the merger or consolidation;
- (5) Any surviving or new corporation shall be responsible and liable for all of the liabilities and obligations of its merged or consolidated corporations. Any claim existing, or action or proceeding pending by or against any merged or consolidated corporation, may be prosecuted as if the merger or consolidation had not taken place or the surviving or new corporation may be substituted in the former's place. Neither the rights of creditors nor any liens upon the property of any merged or consolidated corporation shall be impaired by any merger or consolidation; and
- (6) In the case of a merger, the articles of incorporation of the surviving corporation [shall be deemed to be] are amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger. In the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this chapter, [shall be deemed to be] are the articles of incorporation of the new corporation.”

SECTION 167. Section 415B-86, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415B-86]] Merger or consolidation of domestic and foreign corporations.** One or more foreign corporations and one or more domestic corporations may be merged or consolidated in the following manner; provided that a merger or consolidation is permitted by the laws of the jurisdiction under which each such foreign corporation is organized:

- (1) Each domestic corporation shall comply with this chapter with respect to the merger or consolidation, as the case may be, of domestic corporations and each foreign corporation shall comply with the laws of the jurisdiction under which it is organized;
- (2) If the surviving or new corporation, as the case may be, is to be governed by the laws of any jurisdiction other than this State, it shall comply with the provisions of this chapter with respect to foreign corporations if it is to conduct affairs in this State, and it shall [file with] deliver to the director[:] for filing:
  - (A) An agreement that the surviving or new corporation may be served with process in this State in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to the merger or consolidation; and
  - (B) An irrevocable appointment of [the director] a resident of this State as the surviving or new corporation's agent to accept service of process in any such proceeding.

The effect of [such] the merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except where the surviving or new corporations are governed by laws other than those of this State, insofar as those laws otherwise provide.

After approval by the members, or, if there are no members entitled to vote thereon, by the board of directors, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to any provisions therefor set forth in the plan of merger or consolidation.”

SECTION 168. Section 415B-91, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415B-91]] Voluntary dissolution.** (a) A corporation may dissolve and wind up its affairs in the following manner:

- (1) The board of directors shall adopt a resolution recommending that the corporation be dissolved and direct that the question of the dissolution be submitted to a vote at an annual or special meeting of members entitled to vote thereon. Written notice stating that the purpose, or one of the purposes, of [such] the meeting is to consider the advisability of dissolving the corporation, shall be given to each member entitled to vote at [such] the meeting pursuant to this chapter. A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes which members present at [such] the meeting or represented by proxy are entitled to cast.
- (2) If there are no members or no members entitled to vote on the dissolution, the dissolution of the corporation shall be authorized at a meeting of the board of directors upon the adoption of a resolution to dissolve adopted by the vote of a majority of the directors in office.

## ACT 135

(b) Upon the adoption of a resolution, a statement of intent to dissolve the corporation shall be delivered to the director for filing and shall set forth:

- (1) The name of the corporation;
- (2) The names and respective residence addresses of the corporation's officers and directors;
- (3) A copy of the resolution adopted authorizing the dissolution; and
- (4) The number of votes by members or directors, as the case may be, cast in favor of the resolution.

[(3)] (c) The corporation shall publish once in each of four successive weeks in any newspaper of general circulation published in the State, a notice to all creditors of the corporation to present their claims at a place designated in the notice within ninety days from the first publication of the notice. The corporation shall mail, within thirty days from the first publication of the notice, postage prepaid, a like notice to each creditor whose name and address is known to the corporation and who prior to the mailing of the notice, has not presented any claim. [The notice shall also set forth all corporate and trade names actually used by the corporation of<sup>1</sup> its predecessors in its trade or business during the preceding six years.] All claims, other than tort claims, not so presented shall be forever barred. The corporation, with the approval of the director, may omit the publication of the notice if the assets of the corporation are insufficient to pay for the publication.

(d) Upon the [adoption of the resolution to dissolve by the members, or by the board of directors if there are no members or no members entitled to vote on the dissolution,] filing of the statement of intent to dissolve by the director, the corporation shall cease to conduct its affairs [upon the date established], except insofar as may be necessary for the winding up thereof, and shall proceed to collect its assets and apply and distribute them pursuant to this chapter."

SECTION 169. Section 415B-92, Hawaii Revised Statutes, is amended to read as follows:

**"[§415B-92]] Plan of distribution.** Subject to this chapter, a plan providing for the distribution of assets may be adopted by a corporation in the process of dissolution and shall be adopted by a corporation for the purpose of authorizing any transfer or conveyance of assets for which this chapter requires a plan of distribution, in the following manner:

- (1) The board of directors shall adopt a resolution recommending a plan of distribution and directing the submission thereof to a vote<sup>1</sup> thereon. Written notice setting forth the proposed plan of distribution or a summary thereof shall be given to each member entitled to vote at [such] the meeting, pursuant to this chapter. The plan of distribution shall be adopted upon receiving at least two-thirds of the votes which members present at [such] the meeting or represented by proxy are entitled to cast.
- (2) If there are no members or no members entitled to vote on the plan of distribution, a plan shall be adopted at a meeting of the board of directors upon receiving a vote of a majority of the directors in office."

SECTION 170. Section 415B-94, Hawaii Revised Statutes, is amended to read as follows:

**"[§415B-94]] Articles of dissolution.** If voluntary dissolution proceedings have not been revoked, when all debts, liabilities, and obligations



of the corporation have been paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the corporation have been transferred, conveyed, or distributed pursuant to this chapter, articles of dissolution shall be [filed pursuant to section 415B-10,] delivered to the director for filing and shall be verified on oath and set forth:

- (1) The name of the corporation;
- (2) A statement setting forth the date of any meeting of members at which the resolution to dissolve was adopted, that a quorum was present at [such] the meeting, and that [such] the resolution received at least two-thirds of the votes which members present at [such] the meeting or represented by proxy were entitled to cast, or a statement that a resolution to dissolve was adopted by a consent in writing signed by all members entitled to vote with respect thereto;
- (3) If there are no members or no members entitled to vote thereon, a statement of [such] this fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted, and a statement of the fact that [such] the resolution received the vote of a majority of the directors in office;
- (4) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor;
- (5) A copy of any plan of distribution as adopted by the corporation, or a statement that no plan was so adopted;
- (6) That all of the remaining property and assets of the corporation have been transferred, conveyed, or distributed pursuant to this chapter;
- (7) That there are no actions pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against the corporation in any pending action; [and]
- (8) [That] The dates on which the notice required by section 415B-91(3) [has been complied with] was published; and
- (9) The date that the director filed the statement of intent."

SECTION 171. Section 415B-95, Hawaii Revised Statutes, is amended to read as follows:

**"[§415B-95] Filing of articles of dissolution.** The articles of dissolution shall be delivered to the director [and filed] for filing [pursuant to section 415B-10].

Upon the filing of the articles of dissolution, the existence of the corporation shall cease [on the date established therein], unless a date of dissolution, no more than thirty days after the filing is otherwise established in the articles.<sup>1</sup> except for the purpose of any action, proceeding, or other appropriate corporate action by members, directors, and officers as permitted in this chapter."

SECTION 172. Section 415B-96, Hawaii Revised Statutes, is amended to read as follows:

**"[§415B-96] Revocation of voluntary dissolution proceedings.** At any time prior to the filing of the articles of dissolution by the director, a corporation may revoke the action therefore<sup>1</sup> taken to dissolve the corporation in the following manner:

- (1) The board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of [such] revocation be submitted to a vote at an annual or special meeting of members entitled to vote thereon. Written notice stating that the purpose,<sup>1</sup> of [such] the meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each member entitled to vote at [such] the meeting pursuant to this chapter. A resolution to revoke the voluntary dissolution proceedings shall be adopted upon receiving at least two-thirds of the votes which members present at [such] the meeting or represented by proxy are entitled to cast.
- (2) If there are no members or no members entitled to vote on the revocation of voluntary dissolution proceedings, a resolution to revoke the voluntary dissolution proceedings shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

Upon the adoption of [such] the resolution by the members, or by the board of directors where there are no members or no members entitled to vote thereon, the corporation may again conduct its affairs.”

SECTION 173. Section 415B-97, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[§415B-97]] Involuntary dissolution], when].~~ A corporation may be dissolved involuntarily when it is established that:

- (1) The corporation has failed to [file] deliver to the director its annual report within the time required by this chapter[;] for a period of two years;
- (2) The corporation procured its articles of incorporation through fraud;
- [(3) The corporation has continued to exceed or abuse the authority conferred upon it by law;
- (4)] (3) The corporation has failed for ninety days to appoint and maintain a registered agent in this State;
- [(5)] (4) The corporation has failed for ninety days after change of its registered agent to file in the office of the director a statement of such change;
- [(6) The corporation has been adjudicated bankrupt; or
- (7) The corporation’s articles of incorporation have expired with no attempt by the corporation to renew or extend the articles for two years.];<sup>1</sup> or
- (5) The corporation has failed to complete voluntary dissolution for a period of two years.”

SECTION 174. Section 415B-98, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[§415B-98]] Involuntary dissolution, ordered by director[.]; reinstatement.~~ (a) Whenever the director certifies that a corporation has given any cause for dissolution pursuant to section 415B-97, the director may [disincorporate the corporation or annul the articles of incorporation and] declare the corporation dissolved[, after giving notice of the intention to dissolve the corporation by mailing notice<sup>1</sup> to the corporation at its last known address appearing in the records of the director and by publishing

notice of such intention once in each of three successive weeks in a newspaper of general circulation published in the State]. Before the director may declare a corporation dissolved, the director shall:

- (1) Give notice of the ground or grounds for dissolution as provided in section 415-94, by mailing the notice to the corporation at its last known address appearing in the records of the director; and
- (2) Give notice of the intention to dissolve the corporation by publishing the notice once in each of three successive weeks (three publications) in a newspaper of general circulation published in the State.

(b) Parties of interest may petition a court of competent jurisdiction to appoint a trustee to settle the affairs of any corporation so dissolved. If [any corporation is declared dissolved] any trustee is appointed to settle the affairs of the corporation the trustee shall pay to the State out of any funds under the control of the trustee, a sum equal to any penalty imposed under section 415B-157. [In each case the director shall deliver a copy of the decree of dissolution to the director of taxation and to the finance officer of each county.]

(c) If a trustee is not appointed by the director or a court of competent jurisdiction, the last directors of the dissolved corporation shall be and act as trustees for the creditors and shareholders of the dissolved corporation with full powers to settle its affairs.

(d) In each case where the director has given a corporation notice of intention to dissolve the corporation on the grounds that its articles of incorporation have been procured through fraud, the corporation shall be entitled to petition for an administrative hearing under chapter 91 and shall give written notice to the director thereof, before the director may declare the corporation dissolved under subsection (a) of this section.

(e) The director shall, in each case, deliver a copy of the decree of dissolution to the director of taxation and to the finance officer of each county.

(f) Within ninety days after the involuntary dissolution of a corporation under this section, the corporation may be reinstated by the director upon written application executed by any two officers of the corporation setting forth such information as the director may require, and the payment of all delinquent fees, penalties, assessments, taxes, costs of involuntary dissolution, and the filing of all reports due and unfiled. Within the ninety-day period, should the name of the corporation, or a name substantially identical thereto be registered or such name or a name substantially identical thereto be registered as a trade name, then reinstatement shall be allowed only upon the registration of a new name by the involuntarily dissolved corporation pursuant to the amendment provisions of this chapter.

(g) A corporation whose articles of incorporation have expired shall cease to exist by operation of law."

SECTION 175. Section 415B-99, Hawaii Revised Statutes, is amended to read as follows:

**“[§415B-99] Jurisdiction of court to liquidate assets and affairs of corporation.** [The first] Any circuit court shall have full power to liquidate the assets and affairs of a corporation:

- (1) Pursuant to action by a member or director when it appears:
  - (A) That the directors are deadlocked in the management of the corporate affairs and that irreparable injury to the corporation is being suffered or is threatened by reason

- thereof, and the members are unable to break the deadlock or there are no members having voting rights;
- (B) That the acts of the directors or those in control of the corporation are illegal or fraudulent;
  - (C) That the members entitled to vote in the election of directors are deadlocked in voting power and have failed for at least two years to elect successors to directors whose terms have expired or would have expired upon the election of their successors;
  - (D) That the corporate assets are being misapplied or wasted; or
  - (E) That the corporation is unable to carry out its purposes; or
- (2) Upon application by a corporation to have its dissolution continued under the supervision of the court. It shall be unnecessary to make directors or members parties to any such action or proceedings unless relief is sought against them personally.”

SECTION 176. Section 415B-100, Hawaii Revised Statutes, is amended by amending subsections (a), (c) and (d) to read as follows:

“(a) In proceedings to liquidate the assets and affairs of a corporation the court shall have the power [to issue injunctions; to appoint a receiver or receivers pendente lite with such powers and duties as the court, from time to time, may direct, and to take any other action as may be necessary to preserve the corporate assets wherever situated and carry on the affairs of the corporation until a full hearing can be had.];

- (1) To issue injunctions;
- (2) To appoint a receiver or receivers pendente lite with such powers and duties as the court, from time to time, may direct; and
- (3) To take any other action as may be necessary to preserve the corporate assets wherever situated and carry on the affairs of the corporation until a full hearing can be had.

[After a hearing had upon such notice as the] The court may direct [to] that notice be given to all parties to the proceedings and to any other parties in interest designated by the court, and after a hearing on the notice, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation. [Any such] The liquidating receiver shall have authority, subject to the order of the court, to sell, convey, and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The order appointing [any such] the liquidating receiver shall state the powers and duties, which may be increased or diminished at any time during the proceedings.

(c) The court shall have power to allow, from time to time, as expenses of the liquidation, compensation to any receiver, and to any attorney in the proceeding, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of [such] the assets.

(d) A receiver of a corporation appointed under this section shall have authority to sue and defend in all courts in the receiver’s own name as receiver of [such] the corporation. The court appointing [such] the receiver shall have exclusive jurisdiction of the corporation and its property, wherever situated.”

SECTION 177. Section 415B-103, Hawaii Revised Statutes, is amended to read as follows:

“[[§415B-103]] Discontinuance of liquidation proceedings. The liquidation of the assets and affairs of a corporation may be discontinued at any

time during the liquidation proceedings when it is established that cause for liquidation no longer exists. In [such] that event the court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all of its remaining property and assets.”

SECTION 178. Section 415B-104, Hawaii Revised Statutes, is amended to read as follows:

“**[§415B-104]** **Decree of involuntary dissolution.** In proceedings to liquidate the assets and affairs of a corporation, when the costs and expenses of [such] the proceedings and all debts, obligations, and liabilities of the corporation have been paid and discharged and all of its remaining property and assets distributed pursuant to this chapter, or in case the corporation’s property and assets are not sufficient to satisfy and discharge [such] the costs, expenses, debts, and obligations, and all of the property and assets have been applied so far as they will go to their payment, the court shall enter a decree dissolving the corporation and the existence of the corporation shall cease.”

SECTION 179. Section 415B-107, Hawaii Revised Statutes, is amended to read as follows:

“**[§415B-107]** **Survival of tort claims after dissolution.** The dissolution of a corporation by (1) the issuance of a certificate of dissolution by the director, (2) a decree of the court when the court has not liquidated the assets and affairs of the corporation pursuant to this chapter, or (3) expiration of the corporation’s period of duration, shall not take away or impair any tort remedy available to or against [such] the corporation for any right or claim existing, or any liability incurred, prior to [such] the dissolution; provided the action or other proceeding thereon is commenced within two years after the date of the incident giving rise to the claim, or the date of [such] the dissolution, whichever is earlier. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors, and officers shall have power to take such corporate or other action as shall be appropriate to protect [such] the remedy, right, or claim. If a corporation is dissolved by the expiration of its period of duration, the corporation may amend its articles of incorporation at any time during [such period of two years] the two-year period so as to extend its period of duration.”

SECTION 180. Section 415B-108, Hawaii Revised Statutes, is amended to read as follows:

“**[§415B-108]** **Sale, lease, exchange, or mortgage of assets.** A sale, lease, exchange, mortgage, pledge, or other disposition of all, or substantially all, of the property<sup>1</sup> conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any corporation for profit, domestic or foreign, as may be authorized in the following manner:

- (1) If there are members entitled to vote thereon, the board of directors shall adopt a resolution recommending [such] the sale, lease, exchange, mortgage, pledge, or other<sup>1</sup> a vote at an annual or special meeting of members entitled to vote thereon. Written notice stating that the purpose, or one of the purposes, of the meeting is to consider the<sup>1</sup> other disposition of all, or substantially all, of the property and assets of the corporation shall be given to each member entitled to vote at [such] the meeting, pursuant to this chapter. At the meeting the members may authorize [such] the sale, lease, exchange, mortgage, pledge, or

other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. The authorization shall require at least two-thirds of the votes which members present at the meeting or represented by proxy are entitled to cast. [Such] Notwithstanding the authorization by a vote of members [notwithstanding], the board of directors may abandon [such] the sale, lease, exchange, mortgage, pledge, or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by members; or

- (2) If there are no members or no members entitled to vote thereon, a sale, lease, exchange, mortgage, pledge, or other disposition of all, or substantially all, of the property and assets of a corporation shall be authorized upon receiving the vote of a majority of the directors in office.

Nothing in this section shall require a vote of the members with respect to any sublease, exchange, mortgage, pledge, or distribution of assets of the corporation in the normal and continuing course of the corporation's business."

SECTION 181. Section 415B-121, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No foreign corporation shall have the right to conduct affairs in this State until it obtains a certificate of authority from the director. No foreign corporation shall be entitled to obtain a certificate of authority under this chapter to conduct in this State any affairs which a corporation organized under this chapter is prohibited from conducting. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws[,] of the jurisdiction under which it is organized, which govern its organization and internal affairs, differ from the laws of this State. Nothing in this chapter shall be construed to authorize this State to regulate the organization or the internal affairs of [such] a foreign corporation."

SECTION 182. Section 415B-122, Hawaii Revised Statutes, is amended to read as follows:

"~~[[[§415B-122]]]~~ **Corporate name of foreign corporation.** No certificate of authority shall be issued to a foreign corporation unless its corporate name:

- [(1) Does not contain any term which indicates or implies that it is organized for any purpose other than any of the purposes contained in the corporation's articles of incorporation;
- (2) (1) Is not the same as, or [deceptively similar] substantially identical to, the name of any profit or nonprofit corporation or partnership<sup>1</sup> existing under the laws of this State, or any profit or nonprofit foreign corporation or<sup>1</sup> foreign partnership authorized to transact business or conduct affairs in this State, or a corporate or trade name reserved or registered pursuant to the laws of this State; and
- [(3) (2) Is transliterated into letters of the English alphabet, if the name is not in English."

SECTION 183. Section 415B-123, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415B-123]] Change of name by foreign corporation. (a)** Whenever a foreign corporation which is authorized to conduct affairs in this State changes its name to one under which a certificate of authority would not be granted, [the certificate of authority of such corporation shall be suspended and it] the foreign corporation shall not thereafter conduct any affairs in this State until it has changed its name to a name which is permitted by the laws of this State.

**(b)** If a foreign corporation is unable to change its name to a name which is available to it under the laws of this State, it may deliver to the director for filing, a certificate of registration of a trade name for the foreign corporation’s file and thereafter become authorized to transact business in this State under that name.”

SECTION 184. Section 415B-124, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415B-124]] Application for certificate of authority.** In order to procure a certificate of authority to conduct affairs in this State, a foreign corporation shall submit an application therefor to the director stating:

- (1) The name of the corporation and the jurisdiction under which it is incorporated;
- (2) The date of incorporation and the period of duration of the corporation;
- (3) The mailing address of the principal office of the corporation in the jurisdiction in which it is incorporated;
- (4) The address of the corporation’s proposed registered office [of the corporation] in this State and the name of its proposed registered agent in this State at [such] that address;
- (5) Any purpose of the corporation which it proposes to pursue in conducting its affairs in this State;
- (6) The names and respective addresses of the directors and officers of the corporation; and
- (7) Any additional information necessary or appropriate to enable the director to determine whether [such] the corporation is entitled to a certificate of authority to conduct affairs in this State.”

SECTION 185. Section 415B-125, Hawaii Revised Statutes, is amended to read as follows:

**“[[§415B-125]] Filing of application for certificate of authority.** The application of a foreign corporation for a certificate of authority shall be delivered to the director, together with a [copy of the corporation’s articles of incorporation and any amendments thereto,] certificate of good standing duly certified by the proper officer of the jurisdiction in which the foreign corporation is incorporated. If the certificate of good standing is in a foreign language, a translation under oath of the translator shall accompany the certificate.”

SECTION 186. Section 415B-126, Hawaii Revised Statutes is amended to read as follows:

**“[[§415B-126]] Effect of certificate of authority.** Upon the issuance of a certificate of authority which shall be effective as of the date the application for the certificate of authority is delivered to the director for filing [by the director,] a foreign corporation shall be authorized to conduct affairs in this State for any purpose set forth in the corporation’s application; provided

## ACT 135

that this State may suspend or revoke such authority pursuant to this chapter.”

SECTION 187. Section 415B-127, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No foreign corporation which is conducting affairs in this State without a certificate of authority shall be permitted to maintain any action or proceeding in any court of this State until [such] the corporation has obtained a certificate of authority. No action or proceeding shall be maintained in any court of this State by any successor or assignee of [such] the corporation on any right, claim, or demand arising out of the conduct of affairs by [such] the corporation in this State, until a certificate of authority has been obtained by [such] the corporation or by a corporation which as<sup>1</sup> acquired all, or substantially all, of its assets.”

SECTION 188. Section 415B-128, Hawaii Revised Statutes, is amended to read as follows:

“**[§415B-128]** Powers of foreign corporation. A foreign corporation which has received a certificate of authority under this chapter and until a certificate of revocation or certificate of withdrawal has been issued pursuant to this chapter, shall enjoy the same, but no greater, rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which [such] the certificate of [authorization] authority is issued. Except as otherwise provided by this chapter, [such] a foreign corporation shall be subject to the same duties, restrictions, penalties, and liabilities now or hereafter imposed upon a domestic corporation of like character.”

SECTION 189. Section 415B-129, Hawaii Revised Statutes, is amended to read as follows:

“**[§415B-129]** Registered office and registered agent of foreign corporation. Any foreign corporation authorized to conduct affairs in this State shall have and continuously maintain in this State:

- (1) A registered office which may be the same as its principal office; and
- (2) A registered agent which may be either an individual resident in this State whose business office is identical [with] to the corporation’s registered office, or a profit or nonprofit domestic corporation[, or a profit or nonprofit foreign corporation authorized to transact business or conduct affairs in this State and] having an office identical with the corporation’s registered office.”

SECTION 190. Section 415B-130, Hawaii Revised Statutes, is amended to read as follows:

“**[§415B-130]** Change of registered office or registered agent of foreign corporation. A foreign corporation authorized to conduct affairs in this State may change its registered office or change its registered agent, or both, upon delivering to the director [pursuant to section 415B-10] for filing a statement setting forth:

- (1) The name of the corporation;
- (2) The street address of the corporation’s current registered office; provided that where no specific street address is available, the rural route post office number or post office box designated or made available by the United States Postal Service may be provided;



- (3) If the address of the corporation's registered office is to be changed, the street address to which the registered office is to be changed; provided that where no specific street address is available, the rural route post office number or post office box designated or made available by the United States Postal Service may be provided;
- (4) The name of the corporation's registered agent;
- (5) If the corporation's registered agent is to be changed, the name of the successor registered agent;
- (6) That the address of the corporation's registered office and the registered agent, as changed, will be identical; and
- (7) That [such] the change was authorized by resolution duly adopted by its board of directors.

If the business address of a registered agent is changed to another place within this State, the registered agent may change the address and the address of the registered office of any corporation for which the registered agent acts, by filing a statement as required above, except that it need be signed only by the registered agent and need not be responsive to the provisions of paragraph (7) and must recite that a copy of the statement has been mailed to the corporation.

Any registered agent in this State appointed by a foreign corporation may resign as [such] the agent for the foreign corporation upon [filing] delivering a written notice thereof [with] to the director who shall mail a copy of the notice to the foreign corporation at its principal office in the jurisdiction in which it is incorporated as shown by its most recent annual report. The appointment of the registered agent shall terminate upon the expiration of thirty days after receipt of the notice by the director."

SECTION 191. Section 415B-131, Hawaii Revised Statutes, is amended to read as follows:

**"[§415B-131] Amendment to articles of incorporation of foreign corporation.** Whenever the articles of incorporation of a foreign corporation authorized to conduct affairs in this State are amended[,] to change its corporate name, the foreign corporation, within thirty days after [such] the amendment becomes effective, shall [file in the office of] deliver to the director for filing a copy of [such] the amendment duly certified by the proper officer of the jurisdiction in which the corporation is incorporated; provided that the filing of itself shall neither enlarge nor alter any purpose which the corporation is authorized to pursue in conducting its affairs in this State nor authorize the corporation to conduct affairs in this State under any other name than the name set forth in its certificate of authority."

SECTION 192. Section 415B-132, Hawaii Revised Statutes, is repealed.

SECTION 193. Section 415B-133, Hawaii Revised Statutes, is amended to read as follows:

**"[§415B-133] Merger of foreign corporation authorized to conduct affairs in this State.** Whenever a foreign corporation authorized to conduct affairs in this State is a party to a statutory merger permitted by the laws of the jurisdiction in which it is incorporated, and [such] the corporation is the surviving corporation, it shall [file] deliver to the director for filing, within sixty days after [such] the merger becomes effective [with the director], a copy of the articles of merger duly certified by the proper officer of the jurisdiction in which [such] the statutory merger was effected. It shall not be

## ACT 135

necessary for [such] the surviving corporation to obtain either a new or amended certificate of authority to conduct affairs in this State unless the name of [such] the corporation is changed by the merger or the corporation desires to pursue [in this State] any purpose other than one which it is then authorized to pursue in this State.”

SECTION 194. Section 415B-134, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[§415B-134]]]~~ **Withdrawal of foreign corporation.** A foreign corporation authorized to conduct affairs in this State may withdraw from this State by applying to the director for a certificate of withdrawal. The application for withdrawal shall be verified on oath and state:

- (1) The name of the corporation and the jurisdiction in which it is incorporated;
- (2) That the corporation is not conducting affairs in this State;
- (3) That the corporation surrenders its authority to conduct affairs in this State;
- (4) That the corporation revokes the authority of its registered agent in this State to accept service of process and consents that service of process in any action or proceeding based upon any cause of action arising in this State during the time the corporation was authorized to conduct affairs in this State may thereafter be made on such corporation by service thereof on the director; [and]
- (5) The dates that notice of the foreign corporation’s intent to withdraw from the State was published, once in each of four successive weeks (four publications) in a newspaper of general circulation published in the State. The foreign corporation, with the approval of the director, may omit the publication of the notice if the corporation has insufficient assets to pay for the publication;
- (6) That all taxes, debts, obligations, and liabilities of the foreign corporation in the State have been paid and discharged or that adequate provision has been made therefor; and
- [(5)] (7) A post office address to which the director may mail a copy of any process against the corporation that may be served on the director.”

SECTION 195. Section 415B-135, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[§415B-135]]]~~ **Filing of application for withdrawal.** The application for withdrawal shall be delivered to the director [and filed pursuant to section 415B-10.] for filing. Upon the [issuance] filing of [such] the certificate of withdrawal[,] by the director, the authority of the corporation to conduct affairs in this State shall cease.”

SECTION 196. Section 415B-136, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[§415B-136]]]~~ **Revocation of certificate of authority.** (a) The certificate of authority of a foreign corporation to conduct affairs in this State may be revoked by the director when:

- (1) The corporation has failed to file its annual report [within the time required by this chapter,] for a period of two years or has failed to pay any fees or penalties imposed pursuant to this chapter;

- (2) The corporation has failed to appoint and maintain a registered agent in this State as required by this chapter;
- (3) The corporation, after change of its registered agent or registered address, has failed for a period of thirty days to [file in the office of] deliver to the director for filing a statement of the change as required by this chapter;
- (4) The corporation has failed to [file in the office of the director any amendment to its articles of incorporation,] deliver to the director a certificate evidencing its name change or any articles of merger within the time prescribed by this chapter;
- (5) The certificate of authority of the corporation was procured through fraud practiced upon the State;
- [(6) The corporation has continued to exceed or abuse the authority conferred upon it by this chapter;] or
- [(7) (6) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by [such] the corporation pursuant to this chapter.

(b) No certificate of authority of a foreign corporation shall be revoked by the director unless the director has given the corporation at least sixty days' notice of the revocation by mail addressed to the corporation's registered office in this State, and the corporation, prior to revocation fails [to file an annual report, pay fees or penalties, file the required statement of change of registered agent, file articles of amendment or articles of merger, or correct any misrepresentation.];

- (1) To deliver to the director an annual report;
- (2) To deliver to the director for filing, a certificate evidencing a corporation's name change or articles of merger, or the required statement of change of registered agent;
- (3) To pay fees or penalties; or
- (4) To correct any misrepresentation."

SECTION 197. Section 415B-137, Hawaii Revised Statutes, is amended to read as follows:

"**[[§415B-137]] Issuance of certificate of revocation.** Upon revoking any [such] certificate of authority, the director shall[:

- (1) Issue] issue a certificate of revocation [in duplicate;
- (2) File one of such certificates in the director's office; and
- (3) Mail to the corporation at its registered office in this State a notice of revocation accompanied by one of the certificates.

Upon the issuance of the certificate of revocation], and the authority of the corporation to conduct affairs in this State shall cease."

SECTION 198. Section 415B-151, Hawaii Revised Statutes, is amended to read as follows:

"**[[§415B-151]] Powers of director.** The director shall have the power and authority reasonably necessary to administer this chapter efficiently, to perform the duties [by this chapter] imposed upon the director[,], by this chapter, and to adopt, amend, and repeal rules under this chapter subject to chapter 91."

SECTION 199. Section 415B-152, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) If the director fails to approve any articles of incorporation, amendment, merger, consolidation, or dissolution, or any other document required by this chapter to be [approved by the director before the same shall

## ACT 135

be filed in] delivered to the director[’s office,] for filing, the director [within thirty days after the delivery thereof [to the director],<sup>1</sup> shall deliver written notice of disapproval to the person or corporation and specify the reasons therefor. The person or corporation, domestic or foreign, may appeal the director’s disapproval to [the first] any circuit court by filing with the clerk of [such] the court a petition setting forth a copy of the document sought to be filed and a copy of the written disapproval thereof by the director. The matter shall be tried de novo by the court and the court shall either sustain the action of the director or order the director to take any action the court deems proper.”

SECTION 200. Section 415B-153, Hawaii Revised Statutes, is amended to read as follows:

**“[§415B-153] Interrogatories by director.** The director may propose to any foreign or domestic corporation, subject to this chapter, and to any officer or director thereof, any interrogatories which are reasonably necessary and proper to enable the director to ascertain whether the corporation has complied with all of the applicable provisions of this chapter.

Interrogatories to an officer or director shall be mailed by registered mail to the individual’s latest residence address on file in the office of the director. The interrogatories shall be answered within thirty days after their mailing or within any additional time fixed by the director. The answers to the interrogatories shall be full and complete, in writing, and under oath. If the interrogatories are directed to an individual they shall be answered by [such] the individual; and, if directed to a corporation, they shall be answered by its president, vice-president, secretary, assistant secretary, treasurer, or assistant treasurer.

The director need not file any document related to [such] the interrogatories until the interrogatories are answered pursuant to this section, and not then if [such] the answers disclose that the document is not in conformity with this chapter. The director shall certify to the attorney general, for [such] any action [as] the attorney general deems appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this chapter.

The director, or designated agent, at any time, may call for the production of the books and papers of any domestic or foreign corporation doing business in [the] this State, and examine under oath its officers, members, and any [others relating to] other persons associated with its corporate affairs.”

SECTION 201. Section 415B-155, Hawaii Revised Statutes, is amended to read as follows:

**“[§415B-155] Fees for filing documents and issuing certificates.** The following fees shall be paid to the director upon the filing<sup>1</sup> corporate documents:

- (1) Articles of incorporation of nonprofit corporation, \$10;
  - (2) Certificate of amendment and renewal or extension of charter of nonprofit corporation, \$5;
  - (3) Annual exhibit of nonprofit domestic and foreign corporations, \$1;
  - (4) Agreement of merger or consolidation of nonprofit corporations, \$5; and
  - (5) Filing any other statement or report, except an annual report, of a domestic or foreign corporation, \$5.]
- (1) Articles of incorporation, \$25;

- (2) Articles of amendment, \$10;
- (3) Restated articles of incorporation, \$10;
- (4) Articles of merger or consolidation, \$50;
- (5) Articles of dissolution, \$10;
- (6) Annual report of nonprofit domestic and foreign corporations, \$1;
- (7) Filing any other statement or report, except an annual report, of a nonprofit domestic or foreign corporation, \$10;
- (8) Application for a certificate of authority, \$25;
- (9) Application for a certificate of withdrawal, \$10;
- (10) Reservation of corporate name, \$10;
- (11) Transfer of reservation of corporate name, \$10;
- (12) Good standing certificate, \$15;
- (13) Special handling fee for review of corporation documents, excluding articles of merger or consolidation, \$40;
- (14) Special handling fee for review of articles of merger or consolidation, \$100;
- (15) Special handling fee for certificates issued by the department, \$10 per certificate; and
- (16) Special handling fee for certification of documents, \$1 per page.

All special handling fees shall be credited to a special fund which may be established for use by the department in expediting the processing of documents. At least two temporary business assistants I positions shall be paid out of the special fund."

SECTION 202. Section 415B-156, Hawaii Revised Statutes, is amended to read as follows:

**"[§415B-156] Miscellaneous charges.** The director shall charge and collect:

- (1) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, [35] 25 cents a page and [\$1] \$10 for the certificate and affixing the seal thereto; and
- (2) At the time of any service of process on the director as [resident] agent for service of process of a corporation, [\$5,] \$25, which amount may be recovered as taxable costs by the party to the action causing [such] the service to be made if [such] that party prevails in the action."

SECTION 203. Section 415B-157, Hawaii Revised Statutes, is amended to read as follows:

**"[§415B-157] Penalties imposed upon corporation.** Any domestic or foreign corporation that fails or refuses to file its annual report for any year within the time prescribed by this chapter shall be subject to a penalty of [\$50] \$25 to be assessed by the director. The director may waive the imposition of the penalty upon a showing of good cause.

Any domestic or foreign corporation that fails or refuses to truthfully and fully answer, within the time prescribed by this chapter<sup>1</sup> shall be subject to [chapter 710, part V.] a class C felony."

SECTION 204. Section 415B-158, Hawaii Revised Statutes, is amended to read as follows:

**"[§415B-158] Penalties imposed upon directors and officers.** Any director and officer of a foreign or domestic corporation who, within the time prescribed by this chapter, fails or refuses to truthfully and fully answer interrogatories [propounded] initiated [to such director or officer] by the

## ACT 136

director pursuant to this chapter, or who signs any articles, statement, report, application, or other document [filed with] delivered or delivered to and filed by the director which is known to [such officer or director to] be false in any material respect, shall be subject to [chapter 710, part V.] a class C felony.”

SECTION 205. Section 415B-159, Hawaii Revised Statutes, is amended to read as follows:

“**[§415B-159]** **Effect of chapter on existing corporations.** The existence of corporations formed or existing on the date of enactment of this chapter or the voting requirements in the charter of incorporation of any such corporations shall not be affected by the enactment of this chapter nor by any change in the requirement or repeal of the laws under which they were formed or created.

Neither the repeals effected by the enactment of this chapter nor the amendment thereof shall impair or take away any existing liability, cause of action, or right against any corporation, its shareholders, directors, or officers incurred prior to the time of [such] the enactment, or amendment.

Nothing in this chapter shall affect the validity of any action taken by any corporation, or [shall] impair or affect the validity of any provision of the articles of incorporation or bylaws adopted by any corporation, prior to July 1, 1987.”

SECTION 206. Section 415-90, Hawaii Revised Statutes, is amended to read as follows:

“**[§415-90]** **Filing of statement of revocation of voluntary dissolution proceedings.** The statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of corporation, shall be delivered to [and filed by] the director for filing [pursuant to section 415-55].”

SECTION 207. This Act shall not affect the validity of any provisions of articles of incorporation and bylaws which were adopted, any proceedings which begun, rights which accrued, or penalties or liabilities which were incurred prior to the effective date.

SECTION 208. Chapters 416, 417 and 418, Hawaii Revised Statutes, are repealed.

SECTION 209. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 210. This Act shall take effect on July 1, 1987.

(Approved June 5, 1987.)

### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 136

S.B. NO. 138

A Bill for an Act Relating to the General Fund Expenditure Ceiling.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 37, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§37- Council on revenues; estimate of total personal income. The council shall prepare an estimate of the total state personal income for the calendar year in progress and, when necessary, for the next succeeding calendar year for which such income has not been determined or published and shall report the estimate and any revision thereto to the director of finance, the governor, the chief justice, and the legislature each July 15 and October 15.”

SECTION 2. Section 37-91, Hawaii Revised Statutes, is amended by amending the definition of “state growth” to read as follows:

““State growth” means the estimated rate of growth of the State’s economy and shall be established by averaging the annual percentage change in total state personal income for the three calendar years immediately preceding the [session of the legislature making] fiscal year for which appropriations from the state general fund[,] are to be made. When revisions are made to total state personal income, state growth shall be recalculated on the basis of the latest available data.”

SECTION 3. Section 37-92, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The governor shall submit a plan of proposed appropriations for the State to the legislature which shall accompany the state budget in odd-numbered years and the supplemental budget in even-numbered years. The plan of proposed appropriations shall include the executive budget, proposed grants to private entities, and any specific appropriation measures to be proposed by the executive branch, and estimates of the aggregate proposed appropriations of the judicial and legislative branches of government. In any year in which the plan of proposed appropriations from the general fund exceeds the expenditure ceiling, the governor shall set forth the dollar amount, the rate by which the expenditure ceiling would be exceeded, and the reasons for proposing appropriations in excess of those allowed under the expenditure ceiling.”

2. By amending subsection (d) to read:

“(d) The budget documents presented by the governor to the legislature shall include a statement or summary showing (1) the total state personal income for each of the four calendar years immediately preceding the [session of the legislature making] fiscal year for which appropriations from the state general fund[,] are to be made, (2) the appropriations from the general fund for the previous fiscal year, (3) the appropriations from the general fund for the fiscal year in progress, and (4) the general fund expenditure ceiling [for the ensuing fiscal year and] for the fiscal year in progress[,] and for the ensuing fiscal year or, when necessary, for each fiscal year of the ensuing biennium.”

3. By amending subsection (e) to read:

“(e) The governor shall also include a statement or summary showing (1) recommended appropriations from the general fund for the executive branch for the ensuing fiscal year[,] or fiscal biennium, (2) actual appropriations from the general fund for the executive branch plus any recommended appropriations from the general fund for the executive branch for the fiscal

## ACT 136

year in progress, (3) the appropriations from the general fund for the executive branch for the previous fiscal year, and (4) the general fund appropriation ceiling for the executive branch as established by subsection (b) [for the ensuing fiscal year and] for the fiscal year in progress[.] and for the ensuing fiscal year or, when necessary, for each fiscal year of the ensuing biennium.”

4. By amending subsection (g) to read:

“(g) The budget documents presented by the chief justice to the legislature shall include a statement or summary showing (1) recommended appropriations from the general fund for the judicial branch for the ensuing fiscal year[,] or fiscal biennium, (2) actual appropriations from the general fund for the judicial branch plus any recommended appropriations from the general fund for the judicial branch for the fiscal year in progress, (3) the appropriations from the general fund for the judicial branch for the previous fiscal year, and (4) the general fund appropriation ceiling for the judicial branch as established by subsection (b)[, for the ensuing fiscal year and] for the fiscal year in progress[.] and for the ensuing fiscal year or, when necessary, for each fiscal year of the ensuing biennium.”

SECTION 4. Section 37-93, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) [The] Notwithstanding the prohibition in subsection (a), the legislature may make appropriations from the general fund in excess of those allowed by subsection (a) by:

- (1) A two-thirds vote of the members to which each house of the legislature is entitled;
- (2) Setting forth the dollar amount and the rate by which the appropriations allowed by the change in the state growth will be exceeded; and
- (3) Setting forth the reasons for exceeding the appropriations allowed by the percentage change in the state growth;

in each act which will cause appropriations from the state general fund to exceed those allowed by the change in state growth.”

SECTION 5. Section 37-94, Hawaii Revised Statutes, is amended to read as follows:

“§37-94 **Director of finance; duties.** A preliminary estimate of the state growth and expenditure ceiling shall be determined by the director of finance as of August 1 of each year. The final estimate of the state growth and expenditure ceiling to be used by the legislature to make appropriations from the general fund in each year shall be determined by the director of finance as of November 1 of each year. Upon the determination of both the preliminary estimate and the final estimate of the state growth and expenditure ceiling, the director shall inform the governor, chief justice, and the legislature, and shall give public notice of such state growth and expenditure ceiling and the maximum dollar amount that may be appropriated from the general fund by publication twice in successive weeks in a newspaper of general circulation in the State.”

SECTION 6. Section 2 of Act 1, First Special Session Laws of Hawaii 1986, is amended to read as follows:

“SECTION 2. This Act shall take effect on July 1, 1986[, and shall be repealed as of June 30, 1987].”



SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on June 30, 1987.

(Approved June 5, 1987.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 137

S.B. NO. 216

A Bill for an Act Relating to Intoxicating Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 281, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§281- Practices to promote excessive consumption of liquor; prohibited.** (a) No person licensed to sell liquor for consumption on the premises shall engage in practices which promote excessive consumption of liquor.

(b) The liquor commission shall adopt rules pursuant to chapter 91 to prohibit specific liquor promotion practices which promote excessive consumption of liquor.

(c) Any person who violates this section or any rule adopted by the commission pursuant to this chapter shall be guilty of a violation for each separate offense. Each date of violation shall constitute a separate offense.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 138

S.B. NO. 316

A Bill for an Act Relating to the Hawaii Community Development Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 206E-153, Hawaii Revised Statutes, is amended to read as follows:

**“§206E-153 Revenue bonds; authorization.** (a) The authority, with the approval of the governor, may issue from time to time revenue bonds in amounts not exceeding the total amount of bonds authorized to be issued by the legislature for the purpose of constructing, acquiring, remodeling, furnishing, and equipping any public facility, including acquisition of the site thereof.

(b) All revenue bonds shall be issued pursuant to part III of chapter 39, except as provided in this part.

## ACT 139

(c) The revenue bonds under this part are declared to be issued for a public purpose and, together with interest thereon, shall be exempt from all state and county taxation except estate and transfer taxes. The legislature consents to federal income taxation of interest on revenue bonds issued under this part, if it is determined by the authority that such issuance is in the best interest of the State.

[(c)] (d) The revenue bonds shall be issued in the name of the authority and not in the name of the State. The final maturity date of the revenue bonds may be any date not exceeding thirty years from the date of issuance.”

SECTION 2. The provisions of this Act shall not be used to finance the undertaking of a public parking facility by the Hawaii community development authority on the parcels of land designated as tax map keys 2-1-48:01, 02, 03, 04, and 07 further described in the respective deeds filed in the bureau of conveyances, State of Hawaii, on page 52 of liber 2224; page 330 of liber 3148; page 488 of liber 18,995; page 183 of liber 19,943; and page 311 of liber 2199.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

## ACT 139

S.B. NO. 800

A Bill for an Act Relating to Bail.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 804-7.1, Hawaii Revised Statutes, is amended to read as follows:

“§804-7.1 Conditions of release on bail[.], recognizance, or supervised release. Upon a showing that there exists a danger that the defendant will commit a serious crime or will seek to intimidate witnesses, or will otherwise unlawfully interfere with the orderly administration of justice, the judicial officer named in section 804-5 may deny the defendant’s release on bail [or, upon], recognizance, or supervised release. Upon the defendant’s release on bail, recognizance, or supervised release, however, the court may enter an order:

- (1) Prohibiting the defendant from approaching or communicating with particular persons or classes of persons, except that no such order should be deemed to prohibit any lawful and ethical activity of defendant’s counsel;
- (2) Prohibiting the defendant from going to certain described geographical areas or premises;
- (3) Prohibiting the defendant from possessing any dangerous weapon, engaging in certain described activities, or indulging in intoxicating liquors of<sup>1</sup> certain drugs;
- (4) Requiring the defendant to report regularly to and remain under the supervision of an officer of the court; [or]
- (5) Requiring the defendant to maintain employment, or, if unemployed, to actively seek employment, or attend an educational or vocational institution;
- (6) Requiring the defendant to comply with a specified curfew;

- (7) Requiring the defendant to seek and maintain mental health treatment or testing, including treatment for drug or alcohol dependency, or to remain in a specified institution for that purpose;
- (8) Requiring the defendant to remain in the jurisdiction of the judicial circuit in which the charges are pending unless approval is obtained from a court of competent jurisdiction to leave the jurisdiction of the court;
- (9) Requiring the defendant to satisfy any other condition reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person or community; or
- (5) (10) Imposing any combination of conditions listed above.

The judicial officer may revoke a defendant's bail upon proof that the defendant has breached any of the conditions imposed."

SECTION 2. Section 804-7.2, Hawaii Revised Statutes, is amended to read as follows:

**"[§804-7.2] Violations of conditions of release on bail[.], recognizance, or supervised release.** Upon verified application by the prosecuting attorney alleging that a defendant has [wilfully] intentionally violated the conditions of release on bail, recognizance, or supervised release, the judicial officer named in section 804-5 shall issue a warrant directing the defendant be arrested and taken forthwith before the court<sup>1</sup> record for hearing. A law enforcement officer having reasonable grounds to believe that a released felony defendant has violated the conditions of release on bail, recognizance, or supervised release, may, where it would be impracticable to secure a warrant, arrest the defendant and take the defendant forthwith before the court of record."

SECTION 3. Section 804-7.3, Hawaii Revised Statutes, is amended to read as follows:

**"[§804-7.3] Sanctions for violation of conditions of release on bail[.], recognizance, or supervised release.** After hearing, and upon finding that the defendant has [wilfully] intentionally violated reasonable conditions imposed on release on bail, recognizance, or supervised release, the court may impose different or additional conditions upon defendant's release or revoke defendant's release on bail[.], recognizance, or supervised release."

SECTION 4. Section 804-1, Hawaii Revised Statutes, is amended to read as follows:

**"§804-1 Bail defined.** Bail, or the giving of bail, is the signing of the recognizance by the [person] defendant and the [person's] defendant's surety or sureties, conditioned for the appearance of the [prisoner] defendant at the session of a court of competent jurisdiction to be named in the condition, and to abide by the judgment of the court. [It is provided, that the prisoner, or any person in the prisoner's behalf, at any time after the amount of bail has been fixed by competent authority, instead of giving bail with sureties as above provided, may deposit with the clerk of the court, or with such other authority having jurisdiction to fix the amount of the bail as in this chapter provided, an amount of money or credit card authorization equal to the amount of bail fixed by such authority. The sum of money so deposited shall be held and dealt with, by the court having jurisdiction thereof, as security for the appearance of the prisoner for trial in the same manner as though the prisoner had entered into a recognizance for the prisoner's appearance as in this chapter provided.]"

## ACT 139

SECTION 5. Section 804-3, Hawaii Revised Statutes, is amended by amending subsections (a) and (d) to read as follows:

“(a) For purposes of this section, “serious crime” means murder or attempted murder in the first degree, murder or attempted murder in the second degree, or a class A or B felony, except forgery in the first degree and failing to render aid under section 291C-12, and “bail” includes release on one’s own recognizance, supervised release, and conditional release.

(d) If, after a hearing the court finds that no condition or combination of conditions will reasonably assure the appearance of the person when required [and] or that<sup>1</sup> safety of any other person or community, bail may be denied.”

SECTION 6.<sup>2</sup> Section 804-11, Hawaii Revised Statutes, is amended to read as follows:

“**§804-11 One surety sufficient, when.** A single surety is sufficient, if the surety [possesses and owns [unincumbered] unencumbered real property within the State to double the amount for which the surety is bound,]<sup>1</sup>offers cash, a credit card authorization, stocks, bonds, or real property in accordance with section 804- , otherwise there [must] shall be two or more[.] sureties.”

SECTION 7.<sup>2</sup> Section 804-10, Hawaii Revised Statutes, is repealed.

SECTION 8.<sup>2</sup> Section 804-4, Hawaii Revised Statutes, is amended to read as follows:

“**§804-4 When a matter of right.** If the charge is for an offense for which bail is allowable under section 804-3, the defendant may be admitted to bail before conviction as a matter of right. The right to bail shall continue after conviction of a misdemeanor, petty misdemeanor or violation, and release on bail may continue, in the discretion of the court after conviction of a felony until the final determination of any motion for a new trial, appeal, habeas corpus, or other proceedings which are made, taken, issued, or allowed for the purpose of securing a review of the rulings, verdict, judgment, sentence, or other proceedings of any court or jury in or by which the defendant has been arraigned, tried, convicted, or sentenced; except that no bail shall be allowed after conviction and prior to sentencing in cases where bail was not available after conviction and prior to sentencing in cases where bail was not available under section 804-3, or where bail was denied or revoked before conviction; and provided further that no bail shall be allowed pending appeal of a felony conviction where a sentence of imprisonment has been imposed. The court shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ or<sup>1</sup> certiorari, be detain,<sup>1</sup> unless the court finds:

- (1) By clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released; and
- (2) That the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

If the court makes such findings, he shall order the release of the person in accordance with the provisions of section 804-7.1. No defendant entitled to bail, whether bailed or not, shall, without the defendant’s written consent, be subject to the operation of any sentence passed upon the defendant while any proceedings to procure a review of any action of the trial court or jury in

the premises are pending and undetermined, except as provided in section 641-14(a).”

SECTION 9.<sup>2</sup> Chapter 804, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

1. “§804- General conditions of release on bail. (a) Any person released on bail, recognizance, supervised release or conditional release shall be released subject to the following conditions:

- (1) The person shall not commit a federal, state or local offense during the period of release;
- (2) The person shall appear for all court hearings unless notified by his attorney that his appearance is not required; and
- (3) The person shall remain in State of Hawaii unless approval is obtained from a court of competent jurisdiction to leave the jurisdiction of the court.”

2. “§804- Sureties; qualification. (a) In determining the sufficiency of a surety or sureties, the court shall consider the surety’s or sureties’:

- (1) Character;
- (2) Reliability;
- (3) Place of residence; and
- (4) Financial and employment circumstances.

(b) No person shall be sufficient surety who:

- (1) Has been convicted of perjury for submitting a false statement under section 804- ; or
- (2) Does not satisfy the requirements of section 804- .”

3. “§804- Cash, credit card authorization, stocks, bonds, or real property as security for bail. (a) Any person who is permitted to give bail in accordance with section 804- may secure the bail bond by a deposit, with the clerk of the appropriate court, of:

- (1) Cash or credit card authorization equal to the amount of the bail;
- (2) The unencumbered interest of which has market value of not less than the amount of the bail bond; or
- (3) Deeds for real property:
  - (A) Situated in this State;
  - (B) Not exempt from attachment or execution under section 651-92;
  - (C) Owned by the person depositing the bail; and
  - (D) Consisting of an unencumbered interest the value of which is at least double the amount of the bail bond.

(b) If the bail bond is secured by stocks and bonds the person giving the bail shall file with the bond a sworn schedule which shall be approved by the court and shall contain:

- (1) A list of the stocks and bonds deposited describing each in insufficient<sup>1</sup> detail that they may be identified;
- (2) The present market value of each stock and bond;
- (3) The total market value of the stocks and bonds listed;
- (4) A statement that the affiant is or affiants are the sole owner or owners of the stocks and bonds listed; and
- (5) A statement that the stocks and bonds are security for the appearance of the defendant in accordance with the conditions of release imposed by the court.

## ACT 140

(c) If the bail bond is secured by real property the person giving the bail shall file with the bond a statement of value of the real property from the tax assessor of the county in which the real property is located and a sworn schedule which shall contain:

- (1) A legal description of the real property;
- (2) A description of any and all encumbrances on the real property including the amount of each and the holder thereof;
- (3) The market value of the unencumbered interest owned by the affiant or affiants;
- (4) A statement that the affiant is the sole owner, or in the case of jointly owned real property, that affiants are the sole owners of the unencumbered interest and that it is not exempt from execution under section 651-92; and
- (5) A statement that the real property is security for the appearance of the defendant in accordance with the conditions of release imposed by the court.

(d) The sworn schedule shall constitute a material part of the bail bond. An affiant commits the offense of perjury under section 710-1060 if in the sworn schedule the affiant makes a false statement which the affiant does not believe to be true.

(e) The clerk of the court requiring the bail bond shall immediately file a certified copy of the bail bond and schedule of real property in the office of the court clerk of the circuit in which the real property is situated. The bail bond and schedule of real property shall be accompanied by the necessary recording fee, which shall be paid by the affiant or affiants. The court clerk shall record the copies of the bail bond and schedule and thereupon the State shall have a lien on the real property from the date and time of recordation. The instruments described in this section shall be recorded with the bureau of conveyances.

(f) For the purposes of this section, an unencumbered interest in real property, stocks, or bonds, means that the interest is not encumbered by any lien or encumbrance or is not currently being used as security for a bail bond.

(g) In case the officer taking the bail doubts the sufficiency of the person giving bail, the officer may compel that person, either by oath or otherwise, to furnish proof of the person's sufficiency."

SECTION 10.<sup>2</sup> This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 11.<sup>2</sup> Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>3</sup>

SECTION 12.<sup>2</sup> This Act shall take effect upon its approval.

(Approved June 5, 1987.)

### Notes

1. So in original.
2. Section designation corrected.
3. Edited pursuant to HRS §23G-16.5.

## ACT 140

S.B. NO. 856

A Bill for an Act Relating to Organized Crime.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 842-3, Hawaii Revised Statutes, is amended to read as follows:

**“§842-3 Penalty; forfeiture of property.** Whoever violates this chapter shall be guilty of a class B felony and shall be fined not more than \$10,000, [or imprisoned not more than ten years, or both,] and sentenced to an indeterminate term of imprisonment of ten years without possibility of suspension of sentence or probation, and shall forfeit to the State any interest or property he has acquired or maintained in violation of this chapter.

Upon conviction of a person under this chapter, the circuit court shall authorize the county attorney or prosecutor, or the attorney general, to seize all property or other interest declared forfeited under this chapter upon such terms and conditions as the court shall deem proper. The State shall dispose of all property or other interest seized under this chapter as soon as feasible making due provision for the rights of innocent persons. If a property right or other interest is not exercisable or transferable for value by the State, it shall expire, and shall not revert to the convicted person.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

## ACT 141

S.B. NO. 877

A Bill for an Act Relating to Intoxicating Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-3, Hawaii Revised Statutes, is amended to read as follows:

**“§281-3 Illegal manufacture, importation, or sale of liquor.** It shall be unlawful for any person not having a valid license to manufacture, sell, offer, expose, or keep for sale any liquor except as otherwise provided in this chapter; provided that the head of any family may produce for family use and not for sale an amount of wine not exceeding two hundred gallons a year, and an amount of beer not exceeding one hundred gallons a year.

It shall also be unlawful for any person, not having a valid wholesale license or a valid manufacturer's (including rectifier's) license, to import any liquor from without the State, except as otherwise provided in this chapter. Liquor imported into this State shall come to rest at the warehouse of the manufacturer (including rectifier) or the wholesaler importing the liquor, shall be unloaded into such warehouse, and shall be held in such warehouse for at least forty-eight hours before further sale by such manufacturer (including rectifier) or wholesaler.

It shall also be unlawful for any person to label, designate, or sell any liquor using the word “Hawaii”, “Hawaiian”, “Aloha State”, “50th State”, “Kauai”, “Maui”, “Oahu”, or “Honolulu” unless such liquor is wholly or partially manufactured in the State.

A license shall constitute authority for the licensee to sell only the liquor thereby authorized to be sold by the licensee.”

## ACT 142

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that it shall apply to the import of any liquor after June 30, 1986.

(Approved June 5, 1987.)

## ACT 142

S.B. NO. 909

A Bill for an Act Relating to Substance Abuse.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended as follows:

1. By amending section 353-1.1 to read:

**“§353-1.1 Establishment of community correctional centers.** There shall be a community correctional center for each of the counties under the direction and administration of the director of the department of social services and housing. Any community correctional center may be integrated and operated concurrently with any other correctional facility or facilities. Each center shall:

- (1) Provide residential detention for persons awaiting judicial disposition who have not been conditionally released;
- (2) Provide residential custody and correctional care for committed misdemeanants and for felony offenders committed to indeterminate sentences;
- (3) Provide for committed persons, correctional services, including but not limited to social and psychiatric-psychological evaluation, employment counseling, social inventory, correctional programming, medical and dental services;
- (4) Provide for committed persons, recreational, educational, and occupational training and social adjustment programs;
- (5) Provide for persons released from the centers, referrals to community educational, vocational training, employment, and work study programs; and aftercare, supervisory and counseling services[.];
- (6) Provide for committed persons, substance abuse treatment.

The community correctional centers may be staffed by full-time or part-time professional staff appointed pursuant to chapter 76, or may utilize contractual professional services.”

2. By amending subsection (b) of section 353-1.2 to read:

“(b) [ ]The facility shall:[ ]

- (1) Provide extensive control and correctional programs for categories of persons who cannot be held or treated in other correctional facilities, including but not limited to:
  - (A) Individuals committed because of serious predatory or violent crimes against the person;
  - (B) Intractable recidivists;
  - (C) Persons characterized by varying degrees of personality disorders;
  - (D) Recidivists identified with organized crime;
  - (E) Violent and dangerously deviant persons;



- (F) Persons in need of major medical, psychiatric or specialized care;
- (2) Provide correctional services including but not limited to psychiatric and psychological evaluation, social inventory, correctional programming, medical and dental services;
- (3) Provide recreational, educational, occupational training and social adjustment programs[.];
- (4) Provide substance abuse treatment for committed persons."

3. By amending section 353-4 to read:

shall: **"§353-4 Special powers and duties.** The director of social services

- (1) See to it that the duties of all officers and employees are efficiently and faithfully performed;
- (2) Keep oneself fully informed at all times concerning the health, care, and treatment of committed persons, the sanitary and other conditions affecting the correctional facilities under the director's jurisdiction, and all other matters within the director's jurisdiction;
- (3) Cause correctional facilities to be kept in a clean, healthful, and sanitary condition;
- (4) Inquire into and deal justly with all complaints made by committed persons relating to their food, clothing, accommodations, training, education, work, individual correctional plan or treatment;
- (5) Attend to the purchasing of all supplies, materials and equipment necessary for the proper maintenance and operation of correctional facilities and for the care and maintenance of committed persons, and see to the proper care, use, and disposition thereof, conformably with law;
- (6) Keep all books, accounts, and records and make such reports as may be required of the director by law;
- (7) Negotiate with private organizations or agencies for participation and cooperation in programs which further the treatment, training, education and work of committed persons pursuant to law;
- (8) Initiate the individual prescribed correctional plan for committed persons including privileges, placement, treatment, training, education and work in accordance with law;
- (9) Exert every effort to insure that each inmate serving a sentence of imprisonment spends a maximum amount of time on the programs set forth in (7) and (8) above. This shall be voluntary if possible. If not, the director shall prescribe a program of involuntary work within the resources of the State and the capability of the inmate[.];
- (10) Ensure that committed persons are provided substance abuse treatment.

The director or the director's agent may transfer any committed person to or from any correctional facility under the director's jurisdiction. Nothing in this section shall be construed to prohibit the transfer of committed persons from any correctional facility to the Hawaii state hospital or other state institutions as provided by law."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

ACT 143

S.B. NO. 1001

A Bill for an Act Relating to Pest Control Operators.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 460J-1, Hawaii Revised Statutes, is amended to read as follows:

“§460J-1 Definitions. As used in this chapter:

“Board” means the pest control board.

“Director” means the director of commerce and consumer affairs.

“Efficacy and safety data” means data from experiments conducted by qualified scientists to determine the efficacy and safety of a nonchemical pest control device.

“Fumigation” means the use of any substance or substances that emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents, or other pests, which, in the opinion of the board, may be lethal, poisonous, noxious, or dangerous to human life.

“Fumigator” means any person licensed by the board as a pest control operator who shall have been qualified by the board in the branch of pest control which includes fumigation.

“Household pests” means those pests other than wood-destroying [pests] insects and microbes which invade households and other structures, including, but not limited to, rodents, vermin, and insects.

“Nonchemical pest control device” means any device that purports to eliminate or control pests by attracting, repelling, or killing pests without the use of chemicals. [Such a] The device shall include, but not be limited to, electromagnetic waves, sound and ultrasound, cosmic, and other waves.

“Pest control” means, with respect to [household pests and] wood-destroying pests, or [such] other pests which may invade households or other structures, including railroad cars, ships, docks, trucks, airplanes, or the contents thereof, the engaging in, offering to engage in, advertising for, soliciting, or performing the following:

- (1) Identifying infestations [or infections];
- (2) Making an inspection for the purpose of identifying or attempting to identify infestations [or infections] of household or other structures by [such] pests;
- (3) Making inspection reports, recommendations, estimates, and bids, whether oral or written, with respect to [such] infestations [or infections]; and
- (4) Making contracts, or submitting bids for, or the use of insecticides, pesticides, rodenticides, fumigants, or allied chemicals or substances, or mechanical devices, for the purpose of eliminating, exterminating, controlling, or preventing infestations [or infections] of [such] pests or organisms.

“Pest control operator” means any person who personally or through others offers to undertake or practice, or holds oneself out as being able to undertake or practice, or does undertake or practice pest control.”

SECTION 2. Section 460J-8, Hawaii Revised Statutes, is amended to read as follows:

**“§460J-8 No license issued when.** No license shall be issued to:

- (1) Any person unless the person has filed an application therefor;
- (2) Any person who does not possess a history of honesty, truthfulness, financial integrity, and fair dealing;
- [(2)] (3) Any partnership or joint venture unless one member of the partnership or joint venture who actively participates in the pest control business thereof holds an appropriate license;
- [(3)] (4) Any corporation unless the pest control business thereof is under the direct management of an officer who holds an appropriate license;
- [(4)] (5) Any individual unless the individual is of the age of eighteen years or more;
- [(5)] (6) Any person unless the person submits satisfactory proof to the board that the person has obtained workers' compensation insurance or has been authorized to act as a self-insurer as required by chapter 386.”

SECTION 3. Section 460J-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every applicant for a license under this chapter shall file an application on forms prescribed or required by the board, and shall furnish any additional information bearing upon the issuance of the license as the board requires[; provided that the board shall not require any applicant to furnish a statement of the applicant's financial condition]. Every application shall be sworn to before an officer authorized to administer oaths and shall be accompanied by the application and examination fees. In the case of a copartnership, joint venture, or corporation, any licensed member or officer therefor may sign the application and verify the same on behalf of the applicant and every application shall be accompanied by the application and license fees. In the case of a proprietorship, every application shall be accompanied by the application and license fees.”

SECTION 4. Section 460J-16, Hawaii Revised Statutes, is amended to read as follows:

**“[[§460J-16]] Hearings. (a) In every case in which the board denies or refuses to grant or renew a license, the board shall give the person concerned notice and opportunity for hearing in conformity with chapter 91. Any person aggrieved by the denial or refusal by the board to grant or renew a license shall submit a request for a contested case hearing within sixty days of the date of the board's proposed denial or refusal. Appeal to the circuit court under section 91-14, or any other applicable statute, may only be taken from the board's final order, following a contested case hearing.**

(b) In every case where it is proposed to [refuse to grant a license or to] revoke or suspend a license [or to refuse to renew a license], the board shall give the person concerned notice and hearing in conformity with chapter 91. The notice shall be given in writing by registered or certified mail with return receipt requested at least fifteen days before the hearing. The hearing whenever possible shall be held on the island on which the aggrieved party resides.

(c) In all proceedings before it, the board and each member thereof shall have the same powers respecting administering oaths, compelling the attendance of witnesses, and the production of documentary evidence, and examining witnesses as are possessed by circuit judges at chambers. In case of disobedience by any person of any order of the board, or any member thereof, or of any subpoena issued by it, or [such] member, or the refusal of any witness to testify to any matter regarding which the witness may be

## ACT 144

questioned lawfully, any circuit judge, on application by the board, or a member thereof, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein.”

SECTION 5. Section 460J-29, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[§460J-29]]]~~ **Penal sanctions.** Any person who violates this chapter, or who conspires with another to violate this chapter, shall be fined not more than \$2,500[.] or imprisoned for not more than six months, or both.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

## ACT 144

S.B. NO. 1023

A Bill for an Act Relating to Intoxicating Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-107, Hawaii Revised Statutes, is amended to read as follows:

“**§281-107 Presumptive evidence.** In any prosecution under this chapter, the fact that any person engaged in any kind of business holds or is required to hold, a license from the government of the United States [in the name of oneself or any other person] to manufacture or sell intoxicating liquors or that the person has or keeps in or about the person’s place of business or is required to have or keep in or about the person’s place of business, a receipt or a stamp showing payment of a special tax levied under the laws of the United States upon the business of manufacturing or selling intoxicating liquors shall be held and deemed competent evidence that such person is manufacturing or selling such liquors or is keeping the same for sale.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

## ACT 145

S.B. NO. 1095

A Bill for an Act Relating to Penal Responsibility and Fitness to Proceed.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 704-404, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) Upon suspension of further proceedings in the prosecution, the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case the court

shall appoint at least one psychiatrist and at least one [certified clinical] licensed psychologist. The third member may be either a psychiatrist, [certified clinical] licensed psychologist or qualified physician. One of the three shall be a psychiatrist or [certified clinical] licensed psychologist designated by the director of health from within the department of health. The three examiners shall be appointed from a list of certified sanitary<sup>1</sup> examiners as determined by the State department of health. The court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period not exceeding thirty days, or such longer period as the court determines to be necessary for the purpose, and may direct that one or more qualified physicians retained by the defendant be permitted to witness and participate in the examination.”

SECTION 2. Section 704-411, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

“(3) When ordering such a hearing the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third member may be either a psychiatrist, licensed psychologist, or a qualified physician. One of the three shall be a psychiatrist or licensed psychologist designated by the director of health from within the department of health. The three examiners shall be appointed from a list of certified sanity examiners as determined by the State department of health. To facilitate such examination and the proceedings thereon, the court may cause the defendant, if not then so confined, to be committed to a hospital or other suitable facility for the purpose of examination and may direct that qualified physicians retained by the defendant be permitted to witness and participate in the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 704-404(3), (4)(a) and (b), (6), (7), (8), and (9). As used in this section, the term “licensed psychologist” includes psychologists exempted from licensure by chapter<sup>1</sup> 465-3(3).”

SECTION 3. Section 704-414, Hawaii Revised Statutes, is amended to read as follows:

“**§704-414 Procedure upon application for discharge, conditional release, or modification of conditions of release.** Upon filing of an application pursuant to section 704-412 for discharge or conditional release, or upon the filing of an application pursuant to section 704-413 for discharge or for modification of conditions of release, the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third member may be either a psychiatrist, licensed psychologist or qualified physician. One of the three shall be a psychiatrist or licensed psychologist designated by the director of health from within the department of health. The three examiners shall be appointed from a list of certified sanity examiners as determined by the State department of health. To facilitate such examination and the proceedings thereon, the court may cause such person, if not then so confined, to be committed to a hospital or other suitable facility for the purpose of the examination and may direct that qualified physicians retained by the person be permitted to witness and participate in the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 704-404(3), (4)(a), (b), (6), (7),

## ACT 146

(8), and (9). As used in this section, the term "licensed psychologist" includes psychologists exempted from licensure by chapter<sup>1</sup> 465-3(3)."

SECTION 4. Section 706-603, Hawaii Revised Statutes, is amended to read as follows:

**"§706-603 Pre-sentence mental and medical examination.** Before imposing sentence, the court may order a defendant who has been convicted of a felony or misdemeanor to submit to mental and other medical observation and examination for a period not exceeding sixty days or such longer period, not to exceed the length of permissible imprisonment, as the court determines to be necessary for the purpose. The defendant may be remanded for this purpose to any available clinic or hospital, intake service center, or community correctional center and, in addition thereto or in the alternative, and<sup>1</sup> court may appoint one or more qualified psychiatrists, physicians, or licensed psychologists to make the examination. The three examiners shall be appointed from a list of certified sanity examiners as determined by the State department of health. The report of the examination shall be submitted to the court. As used in this section, the term "licensed psychologist" includes psychologists exempted from licensure by chapter<sup>1</sup> 465-3(3)."

SECTION 5. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

### Note

1. So in original.

## ACT 146

S.B. NO. 1163

A Bill for an Act Relating to the Department of the Attorney General.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 846, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§846- Fees.** Except for criminal justice agencies and state or county agencies, the Hawaii criminal justice data center may assess a reasonable fee for each service provided, including but not limited to, conducting criminal history record checks, processing applications for the expungement of arrest records, and accessing state criminal justice information."

SECTION 2. Section 846-1.5, Hawaii Revised Statutes, is amended to read as follows:

**"[~~§~~§846-1.5] Criminal justice data interagency board; establishment.**  
(a) There [shall be a criminal justice data interagency board consisting of eleven members]<sup>1</sup> is established within the department of the attorney general for administrative purposes[. The members of the board shall be appointed by the governor as provided in section 26-34; provided that members of the board shall be representative of criminal justice agencies, shall include a resident member from each county in the State, and shall also have ex officio members, as necessary, to effectuate the purpose of this chapter.] the criminal justice data interagency board, consisting of eleven voting members, eight of whom shall be appointed and three of whom shall be ex officio. The eight appointed members shall include one representative from each of two police departments, one representative from each of two

prosecuting attorneys' offices, an administrative judge of the district court, an administrative judge of the circuit court, a representative from the adult probation office, and a representative of, or a government attorney who provides legal services to, a state or county criminal justice agency. The appointed members shall include a resident of each of the four major counties of the State. The ex officio voting members shall be the division chief of the electronic data processing division of the state department of budget and finance, the director of data systems of the city and county of Honolulu, and the deputy director of the state department overseeing the corrections functions. Members other than the ex officio voting members shall be appointed by the governor as provided in section 26-34 and shall serve in a representative capacity. Upon a member's termination of employment with the member's respective agency, or reassignment to nonadministrative or other functional responsibilities inconsistent with the basis for appointment, that member's terms of appointment to the board shall terminate automatically and a vacancy shall be deemed to exist.

(b) The attorney general shall designate the executive secretary of the board. The board shall meet no less than quarterly. The board shall be responsible for promoting interagency cooperation and coordination in the development and management of an accurate, complete, timely, and fully integrated statewide criminal justice information reporting and retrieval system. The members of the board shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(c) This section shall be repealed on June 30, 1989."

SECTION 3. Section 946-2,<sup>1</sup> Hawaii Revised Statutes, is amended to read as follows:

**"§846-2 Establishment of the Hawaii criminal justice data center.** There shall be a data center, to be known as the "Hawaii criminal justice data center", established in the department of the attorney general. The data center shall be directed and managed by [a director] an administrator appointed by the attorney general subject to chapters 76 and 77."

SECTION 4. Section 846-30, Hawaii Revised Statutes, is amended to read as follows:

**"§846-30 Identification certificates; form.** The department of the attorney general, after taking the fingerprints of each registrant as provided in this part (except as otherwise provided in the case of children under six years of age), and after securing the information required by or pursuant to this part, shall issue to each registrant a certificate of identification in such form, and with such information, as the attorney general deems necessary and practicable, the certificate to contain, among other things: the registrant's social security number; the date of issue; the name, residence, citizenship status, date of birth (if known), the registrant's signature, a facsimile signature of the attorney general, the signature of the officer or employee issuing the certificate (to be designated as the "[director] administrator of the data center"), the fingerprints of the index and middle fingers of each of the registrant's hands (except as otherwise provided in the case of children under six years of age), the name and address of the person to be notified in case of need, and such other personal identification data as the attorney general deems necessary and practicable. Upon the fingerprinting of each child attaining the age of six years after having been registered, the child's previous certificate shall be canceled and a new certificate shall be issued under the same number, bearing the child's fingerprints."

## ACT 147

SECTION 5. Current members of the criminal justice data inter-agency board shall serve their full terms without the necessity of reappointment, except that upon a member's termination of employment with, or reassignment to nonadministrative or other functional responsibilities for, the member's respective agency, that member's term of appointment to the board shall automatically be terminated and a vacancy shall be deemed to exist.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 7. This Act shall take effect on July 1, 1987.

(Approved June 5, 1987.)

### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 147

S.B. NO. 1224

A Bill for an Act Relating to Medicine.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 453-2, Hawaii Revised Statutes, is amended to read as follows:

**“§453-2 License required; exceptions.** Except as otherwise provided by law, no person shall practice medicine or surgery in the State either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce one's self, either publicly or privately, as prepared or qualified to so practice, or shall append the letters “DR.” or “M.D.” to one's name, with the intent thereby to imply that the individual is a practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license, obtained from the board of medical examiners, in form and manner substantially as hereinafter set forth.

Nothing herein shall:

- (1) Apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery;
- (2) Prohibit service in the case of emergency or the domestic administration of family remedies;
- (3) Apply to any commissioned medical officer in the United States army, navy, marine corps, or public health service, engaged in the discharge of one's official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation with a licensed practitioner of this State if the practitioner from another state, at the time of such consultation, is licensed to practice in the state in which [such] the practitioner resides; provided that the practitioner from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and provided further that the laws and regulations relating to contagious diseases are not violated;
- or
- (4) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services or any



physician assistant when such services are rendered under the direction and control of a physician licensed in this State[, except for those specific functions and duties delegated by law to those persons licensed as optometrists under chapter 459.] except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. Such direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs a person certified under part II of this chapter to provide emergency medical services or physician assistant shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such person or physician assistant.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

## ACT 148

S.B. NO. 1446

A Bill for an Act Relating to Mental Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 334-5, Hawaii Revised Statutes, is amended to read as follows:

“**§334-5 Confidentiality of records.** All certificates, applications, records, and reports made for the purposes of this chapter and directly or indirectly identifying a person subject hereto shall be kept confidential and shall not be disclosed by any person except so far (1) as the person identified, or the person’s legal guardian, consents, or (2) as disclosure may be deemed necessary by the director of health or by the administrator of a private psychiatric or special treatment facility to carry out this chapter, or (3) as a court may direct upon its determination that disclosure is necessary for the conduct or proceedings before it and that failure to make the disclosure would be contrary to the public interest[.], or (4) as disclosure may be deemed necessary under the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986, Public Law 99-319, to protect and advocate the rights of persons with mental illness who reside in facilities providing treatment or care. For the purposes of this section, “facilities” shall include, but not be limited to, hospitals, nursing homes, community facilities for mentally ill individuals, boarding homes, and care homes.”

Nothing in this section shall preclude disclosure, upon proper inquiry, of any information relating to a particular patient and not clearly adverse to the interests of the patient, to the patient, the patient’s family, legal guardian, or relatives, nor, except as provided above, affect the application of any other rule or statute of confidentiality. The use of the information disclosed shall be limited to the purposes for which the information was furnished.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

**ACT 149**

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

**ACT 149**

S.B. NO. 1673

A Bill for an Act Relating to Employees' Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-47, Hawaii Revised Statutes, is amended to read as follows:

**“§88-47 Membership.** There shall be three classes of members in the system to be known as class A members, class B members, and class C members, defined as follows:

- (1) Class A members shall consist of members covered by section 88-74(3), those members whose salaries are set forth in sections 26-52, and 26-53, and those members in service prior to July 1, 1984, including those who are on approved leave of absence, who are covered by Title II of the Social Security Act on account of service creditable under this part. These members shall consist of:
  - (A) All employees who enter the membership of the system after June 30, 1957, except employees in positions to which coverage under Title II of the Social Security Act is not extended; and
  - (B) All employees who were members of the system on July 1, 1957, who elected to be covered by the Social Security Act.
- (2) Class B members shall consist of all members in the system who are not class A or class C members.
- (3) Except for members covered by section 88-74(3), and those members whose salaries are set forth in sections 26-52, and 26-53, class C members shall consist of all employees in positions covered by Title II of the Social Security Act who:
  - (A) First enter service after June 30, 1984;
  - (B) Reenter service after June 30, 1984 without vested benefit status as provided in section 88-96(b); or
  - (C) Make the election to become a class C member as provided in part VII [of this chapter].
- (4) None of the provisions of this part shall apply to class C members except as specifically provided in part VII [of this chapter].”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

**ACT 150**

S.B. NO. 1748

A Bill for an Act Relating to Vessel Registration Fees and Charges.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 267-12, Hawaii Revised Statutes, is amended to read as follows:

**“§267-12 Fees and charges.** (a) Except for vessels for which fees and charges are provided in subsection (b), for each vessel required to be registered and numbered by section 267-11, the department of transportation shall assess and collect from the owner the following fees and charges:

- (1) Initial annual registration fee. For the issuance of an original certificate:
  - (A) For each vessel [twenty feet or] less than twenty feet in length, [~~\$4.~~] \$13.
  - (B) For each vessel [more than] twenty feet or more in length, [~~\$10.]~~ \$25.
  - (C) For each amphibious vehicle licensed as a motor vehicle, [~~\$4.]~~ \$15.
- (2) Annual certificate renewal fee. For the annual renewal of a certificate:
  - (A) For each vessel [twenty feet or] less than twenty feet in length, [~~\$3.]~~ \$10.
  - (B) For each vessel [more than] twenty feet or more in length, [~~\$8.]~~ \$15.
  - (C) For each amphibious vehicle that is licensed as a motor vehicle, [~~\$3.]~~ \$10.
- (3) Reregistration fee. For the reregistration of a vessel, after a certificate has been canceled or voided, the appropriate amount provided in subsection (a)(1).
- (4) Transfer fee. For the transfer of a certificate, [~~\$3.]~~ \$5.
- (5) Certificate and registration sticker replacement fee. For the issuance of a replacement certificate or a replacement set of vessel registration stickers, [~~\$1.]~~ \$5.
- (6) Certificate modification fee. For modifying a certificate, [~~\$3.]~~ \$5.
- (7) Penalty charges for late registration, etc. For each month or fraction thereof that a registration, renewal, reregistration or transfer is delinquent, one-tenth of the appropriate fee shall be added to the normal fee.
- (8) Exemptions. The department may reasonably establish, by rules [and regulations], exemptions from the fees required by this section.

(b) For a vessel owned by or operated under the custody or control of a boat manufacturer or boat dealer, the manufacturer or dealer shall pay, in lieu of the fees and charges provided for in subsection (a):

- (1) Boat manufacturer and boat dealer annual certificate fee. For each certificate, a fee of [~~\$10.]~~ \$20.
- (2) Annual certificate renewal fee. For the annual renewal of a certificate, a fee of [~~\$8.]~~ \$15.
- (3) Certificate reissuance. For the reissuance of a certificate after a certificate has been canceled or voided, a fee of [~~\$10.]~~ \$20.
- (4) Certificate and registration sticker replacement fee. For the replacement of a certificate or registration sticker, a fee of [~~\$1.]~~ \$5.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

A Bill for an Act Relating to Liens.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 507-18, Hawaii Revised Statutes, is amended to read as follows:

**“§507-18 Lien on personalty for work done and materials furnished.** A person who makes, alters, or repairs any article of personal property at the request of the owner of the property, shall have a lien on the [same] property for the reasonable charges for the work done and materials furnished, excluding storage charges, and may retain possession of the [same] property until the charges are paid; provided [that the lien hereunder on a motor vehicle registered pursuant to chapter 286 shall not exceed the sum of \$500 unless the consent of the person registered as the legal or registered owner under chapter 286 has been obtained for the work done and materials furnished.] that the registered owner of a motor vehicle registered pursuant to chapter 286 shall be considered the owner for the purposes of this section.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

A Bill for an Act Relating to Optometry.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

**“§26H-4 Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- [(2) Chapter 459 (Board of Examiners in Optometry)]
- (3) [(2) Chapter 452 (Board of Massage)]
- [(4)] (3) Chapter 471 (Board of Veterinary Examiners)
- [(5)] (4) Chapter 441 (Cemeteries and Mortuaries)
- [(6)] (5) Chapter 463 (Board of Detectives and Guards)
- [(7)] (6) Chapter 455 (Board of Examiners in Naturopathy)

(b) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 468K (Travel Agencies)
- (4) Chapter 373 (Commercial Employment Agencies)
- (5) Chapter 442 (Board of Chiropractic Examiners)
- (6) Chapter 448 (Board of Dental Examiners)
- (7) Chapter 436E (Board of Acupuncture)

(c) The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
  - (2) Chapter 448E (Board of Electricians and Plumbers)
  - (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
  - (4) Chapter 466 (Board of Public Accountancy)
  - (5) Chapter 467 (Real Estate Commission)
  - (6) Chapter 439 (Board of Cosmetology)
  - (7) Chapter 454 (Mortgage Brokers and Solicitors)
  - (8) Chapter 454D (Mortgage and Collection Servicing Agents)
- 31, 1990: (d) The following chapters are hereby repealed effective December 31, 1990:
- (1) Chapter 447 (Dental Hygienists)
  - (2) Chapter 453 (Board of Medical Examiners)
  - (3) Chapter 457 (Board of Nursing)
  - (4) Chapter 460J (Pest Control Board)
  - (5) Chapter 462A (Pilotage)
  - (6) Chapter 438 (Board of Barbers)
- 1991: (e) The following chapters are hereby repealed effective December 31, 1991:
- (1) Chapter 448H (Elevator Mechanics Licensing Board)
  - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
  - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
  - (4) Chapter 460 (Board of Osteopathic Examiners)
  - (5) Chapter 461 (Board of Pharmacy)
  - (6) Chapter 461J (Board of Physical Therapy)
  - (7) Chapter 463E (Podiatry)
- 1992: (f) The following chapters are hereby repealed effective December 31, 1992:
- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
  - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
  - (3) Chapter 440 (Boxing Commission)[.]
- 1993: (g) The following chapter is hereby repealed effective December 31, 1993:
- (1) Chapter 459 (Board of Examiners in Optometry)."

SECTION 2. Chapter 459, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

- “§459- Definitions. As used in this chapter:  
 “Board” means the board of examiners in optometry.  
 “Director” means the director of commerce and consumer affairs.”

SECTION 3. Section 459-3, Hawaii Revised Statutes, is amended to read as follows:

“§459-3 Board of examiners; members, appointment, qualifications. There shall be a board to be known as the board of examiners in optometry, for the State. The board shall consist of [five] seven members, [three] five of whom shall be licensed optometrists who have actually engaged in the practice of optometry for at least five years and two of whom shall be public members. One of the five licensed optometrist members shall be from a county other than the city and county of Honolulu. The board shall be appointed by the governor in accordance with section 26-34. No member of the board shall be a stockholder, member of the faculty, or on a board of trustees of any school of optometry.”

## ACT 152

SECTION 4. Section 459-7, Hawaii Revised Statutes, is amended to read as follows:

**“§459-7 Application; examination; reexamination; appeal; renewal; continuing education; license.** (a) Except as otherwise provided in this chapter, every person desiring to begin or to continue the practice of optometry, before beginning or continuing practice, upon presentation of satisfactory evidence, verified by oath, that the applicant is a graduate of an [American] optometric college, school, or university approved by the board of examiners in optometry and accredited by a regional or professional accreditation organization and recognized by the council on post-secondary accreditation or by the United States Office of Education, shall take an examination before the board upon complying with the following requirements:

- (1) Applications for examination shall be made out and filed in writing with the executive secretary of the board; and
- (2) Each application shall be accompanied by an application fee, which shall be retained by the board, and an examination fee.

(b) Each applicant shall file, in writing, with the executive secretary [at least] not less than forty-five days, but not more than one hundred eighty days, prior to the date selected by the board for the examination, the following credentials:

- (1) A copy of the applicant's diploma or certificate of graduation from an [American] optometric college, school, or university approved in accordance with subsection (a); and
- (2) An unretouched, unmounted, passport sized, recent photograph of the applicant.

(c) The applicants for examination shall be given due notice of the date and place of each examination. An applicant who fails to pass an examination on the applicant's first attempt, shall be permitted upon payment of a reexamination fee, to take a second or third examination covering only those parts of the examination which the applicant failed to pass. An applicant who fails to pass the examination on the third attempt or any subsequent attempt shall be required in each instance to file a new application, pay the application and examination fees, and take a complete examination.

An appeal to the circuit court of the circuit within which the applicant resides may be taken from any decision of the board by any applicant who is refused or denied a license.

Every candidate who passes an examination shall be licensed as possessing the qualifications required by this chapter, and shall receive from the board a proper license upon payment of a license fee.

(d) Each licensee shall pay a biennial license fee to the board on or before December 31 of each odd-numbered year for a renewal of the license for the biennium. The failure of any licensee to pay the biennial license fee and submit proof of satisfying the continuing education program requirements on or before December 31 of each odd-numbered year shall automatically constitute a forfeiture of the license. Any license which is so forfeited may be restored upon payment of a penalty fee and all delinquent fees as provided in rules adopted by the director pursuant to chapter 91, and upon submission of proof that the person whose license has been forfeited has satisfied all continuing education requirements for the period of time the license has been forfeited.

(e) Each licensee shall submit proof to the board of examiners that the licensee did, on or before December 31 of each odd-numbered year, meet the requirement of continuing education in programs as set and approved by the

board. The board shall adopt rules for the certification of the administration of the continuing education program.

(f) Certificates of registration shall be endorsed authorizing licensed optometrists to use pharmaceutical agents for examination purposes. A certificate shall certify that an optometrist has complied with the following requirements:

- (1) Successful completion of instruction in general and clinical pharmacology as it relates to the practice of optometry, with particular emphasis on ocular pharmacology. The systemic effects and reactions to topical pharmaceutical agents used for examinations shall be studied, as well as the emergency management and referral of any adverse reactions that may occur. Instruction shall also include review of systemic and ocular diseases and clinical techniques and instruments used with these pharmaceutical agents for examination purposes. The course of study shall be approved by the board, and shall be offered by an institution which is accredited by a regional or professional accreditation organization and is recognized by the council on post-secondary accreditation or by the United States Office of Education; and
- (2) Successful completion of an examination approved by the board which tests for those subjects outlined in the course of instruction in paragraph (1) [above].”

SECTION 5. Chapter 459, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§459- Reciprocity. The board, by rules, shall provide for licensure of optometrists registered and licensed under the laws of any state or territory of the United States or any other jurisdiction with qualifications for licensure which equal or exceed those of this State.”

SECTION 6. Section 459-9, Hawaii Revised Statutes, is amended to read as follows:

“§459-9 Refusal to permit examination or issue license; revocation and suspension of license; grounds for. The board of examiners in optometry may refuse to admit persons to its examinations or to issue a license or may revoke or suspend, for the period of time as may be determined by the board, a license previously issued, or may impose a penalty as shall be established by the board, for any of the following causes:

- (1) Presentation to the board of any certificate or testimony or information which was untrue in any material respect or illegally or fraudulently obtained, or when fraud or deceit has been practiced in obtaining any license under this chapter or in passing an examination;
- (2) Conduct of a character likely to deceive or defraud the public, or habits of intemperance or drug addiction calculated to destroy the accuracy of the work of an optometrist, or professional misconduct, or gross carelessness or negligence, or manifest incapacity in the practice of optometry;
- (3) Advertising [in the following manner:
  - (A) By any means whatsoever, directly or indirectly, to offer ophthalmic lenses, contact lenses, glasses, or frames or fittings thereof at a discount or as a premium for the purchase of any article of merchandise;

- (B) By] by means of false and deceptive statements or by statements which tend to deceive or defraud; [or to claim superiority over fellow optometrists; or to publish reports of cases or certificates of same in any public advertising media;
- (C) In conjunction with any nonlicensed person or groups of individuals by permitting the use of the licensee's name, professional title, or profession;]
- (4) Directly or indirectly accepting or offering employment to practice optometry from, or to any person not having a valid, unrevoked and unsuspended license or from any company or corporation;
- [(5) Making of a house-to-house canvass either in person or through solicitors or associates for the purpose of selling, advertising, or soliciting the sale of eyeglasses, spectacles, ophthalmic lenses, contact lenses, frames, mountings, eye examinations, or optometric services; peddling of eyeglasses, spectacles, ophthalmic lenses, or contact lenses from house-to-house or on the streets or highways notwithstanding any law for the licensing of peddlers;
- (6) Renting space, subleasing departments, or otherwise occupying space to practice optometry on the premises of a commercial (mercantile) concern. Optometric practices shall be under the licensee's ownership and under the licensee's exclusive control. It shall not be in conjunction with a scheme or plan with a commercial (mercantile) concern. The prescription files shall be the sole property of the licensee. The office shall be definite and apart from the space occupied by any commercial (mercantile) concern so that all signs are separate and distinct from the commercial (mercantile) concern and all entrances to the premises shall be separate and definite in character so that there could be no misleading interpretation that the licensee's practice is in any way associated with a commercial (mercantile) concern;
- (7) (5) Soliciting or receiving, directly or indirectly, any price differential, rebate, refund, discount, commission, credit, kick-back, or other allowance, whether in the form of money or otherwise, from a dispensing optician for or on account of referring or sending to the dispensing optician of any intended or prospective wearer or user of any article or appliance prepared or furnished by a dispensing optician, or for or on account of any service or article furnished by the dispensing optician to any intended or prospective wearer or user;
- [(8) (6) Using any name in connection with the licensee's practice other than the name under which the licensee is licensed to practice, or using any advertising which fails to clearly identify the individual licensee or which is ambiguous or misleading as to the licensee's identity;
- [(9) (7) Employing or utilizing any unlicensed individual to perform optometric services in connection with refraction or visual training without directly and personally supervising the individuals in the performances of the services;
- [(10) (8) Violating this chapter or the rules [promulgated] adopted by the board;
- [(11) (9) Utilizing pharmaceutical agents without first being certified as provided in section 459-7 or utilizing pharmaceutical agents for purposes other than those specified in section 459-1; or



[(12)] (10) Failure to refer a patient to an appropriate licensed physician upon discovery, by history or examination, that the patient evidences an ocular abnormality or symptoms of systemic disease requiring further diagnosis and possible treatment by a licensed physician.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 153

H.B. NO. 497

A Bill for an Act Relating to Cemeteries.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“**§26H-4 Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- [(5)] Chapter 441 (Cemeteries and Mortuaries)
- [(6)] (5) Chapter 463 (Board of Detectives and Guards)
- [(7)] (6) Chapter 455 (Board of Examiners in Naturopathy)

(b) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 468K (Travel Agencies)
- (4) Chapter 373 (Commercial Employment Agencies)
- (5) Chapter 442 (Board of Chiropractic Examiners)
- (6) Chapter 448 (Board of Dental Examiners)
- (7) Chapter 436E (Board of Acupuncture)

(c) The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 439 (Board of Cosmetology)
- (7) Chapter 454 (Mortgage Brokers and Solicitors)
- (8) Chapter 454D (Mortgage and Collection Servicing Agents)

(d) The following chapters are hereby repealed effective December 31, 1990:

## ACT 154

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 462A (Pilotage)
- (6) Chapter 438 (Board of Barbers)
- (e) The following chapters are hereby repealed effective December 31,

1991:

- (1) Chapter 448H (Elevator Mechanics Licensing Board)
- (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (4) Chapter 460 (Board of Osteopathic Examiners)
- (5) Chapter 461 (Board of Pharmacy)
- (6) Chapter 461J (Board of Physical Therapy)
- (7) Chapter 463E (Podiatry)
- (f) The following chapters are hereby repealed effective December 31,

1992:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)[.]
- (g) The following chapter is hereby repealed effective December 31,

1993:

- (1) Chapter 441 (Cemetery, and Funeral Trusts)."

SECTION 2. Chapter 441, Hawaii Revised Statutes, is amended by amending the title to read as follows:

### **"[CEMETERIES AND MORTUARIES] CEMETERY AND FUNERAL TRUSTS"**

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

## ACT 154

H.B. NO. 520

A Bill for an Act Relating to Beauty Culture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 439, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§439- Right of injunction.** The department, in addition to any other remedies available, may apply to a court having competent jurisdiction for an injunction to restrain any violation of this chapter."

SECTION 2. Chapter 439, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§439- Cumulative remedies.** The remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State."

SECTION 3. Section 439-1, Hawaii Revised Statutes, is amended to read as follows:

**“§439-1 Definitions.** As used in this chapter:

“Apprentice” means a person who is engaged in a beauty shop in learning to be [an] a beauty operator and while so doing assists in any of the practices of [a hairdresser or cosmetician.] cosmetology.

“Beauty operator” means one of the following certification categories: cosmetologist; hairdresser; cosmetician; or manicurist.

“Beauty shop” means any establishment or place of business wherein the practice of [hairdressing or] cosmetology is engaged or carried on and is the primary purpose of that establishment or business[.]; provided that the practice of barbering is allowed in that establishment or business.

“Board” means the board of cosmetology of the State.

[“Classified occupations” mean the occupations of hairdresser and cosmetician.

“Classified practice” means any of the practices referred to in the definitions of “hairdresser” and “cosmetician”.]

“Cosmetician” means any person who, with hands or mechanical or electrical apparatus or appliances, or by use of cosmetic preparations, antiseptics, tonics, lotions, or creams, engages for compensation in any one or any combination of the following practices: massaging, cleansing, stimulating, manipulating, exercising, beautifying, or doing similar work upon, the scalp, the face, neck, arms, bust, or upper part of the body, or manicuring the nails, or removing of superfluous hair about the body of any person by means other than electrolysis[.]; provided that mechanical or electrical apparatus or appliances do not include those apparatus or appliances considered to be medical prescription devices.

“Cosmetologist” means a person who engages in the practices of a hairdresser and a cosmetician for compensation.

“Cosmetology”, also known as beauty culture, means the art and science of beauty care of the skin, hair, scalp, and nails, and includes any one or a combination of the certification categories if they are performed on a person’s head, face, neck, shoulders, arms, hands, legs, or feet for cosmetic purposes.

“Department” means the department of commerce and consumer affairs.

“Hairdresser” means any person who for compensation engages in any one or any combination of the following practices: arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring, or similar work upon the hair of another person.

“Instructor” means a person who teaches any of the [classified practices;] certification categories; provided that the term shall not be taken to include an operator who teaches apprentices in a beauty shop.

“Manicurist” means any person who for compensation engages in the practice of cutting, trimming, polishing, coloring, cleansing, or otherwise treating a person’s fingernails and toenails; applying artificial fingernails and toenails; and massaging and cleansing a person’s hands, arms, legs, and feet.

[“Junior operator” has the meaning set forth in section 439-12(1).

“Operator” means a hairdresser or cosmetician.]

“School”, unless the context clearly indicates otherwise, means a school engaged in teaching [any of the classified practices.] cosmetology.

“Student” means a person who is engaged in a school in learning to be [an] a beauty operator and while so doing does or assists in doing any act

## ACT 154

involved in [any of] the [practices of a hairdresser or cosmetician.] practice of cosmetology.

“Temporary permit” means a permit issued to a qualified applicant practicing as a beauty operator or instructor until the results of the examination have been published; provided that a temporary permit shall be effective for no longer than two years from the date of issuance.”

SECTION 4. Section 439-2, Hawaii Revised Statutes, is amended to read as follows:

**“§439-2 Registration required.** (a) No person shall for commercial purposes demonstrate any hair or cosmetic preparations or products or practice as a [cosmetologist,] beauty operator, apprentice, [student,] or instructor or operate a school or beauty shop or announce or advertise as being prepared or qualified to do so unless the person is registered with and holds a certificate from the board [of cosmetology] authorizing the person to do so; provided that this chapter shall not affect the right of any person licensed by the State to engage in any other occupation from doing any of the acts properly authorized by the person’s license. The certificate of a [cosmetologist,] beauty operator, instructor, apprentice, shop, or school shall be displayed in a conspicuous place in the office, place of business or employment, or school of the holder thereof.

(b) The practice of cosmetology shall be carried on only by persons duly registered to practice in this State and only in registered beauty shops; provided a registered beauty operator may practice cosmetology at any place for educational purposes or upon persons at a health care, nursing, mental, or correctional facility, at a barber shop, and at a charitable event.”

SECTION 5. Section 439-3, Hawaii Revised Statutes, is amended to read as follows:

**“§439-3 Cosmetology board; appointment; qualifications; terms.** (a) [Appointment and removal.] There shall be a board of cosmetology consisting of seven members, who shall be appointed, and may be removed, by the governor in the manner provided in section 26-34.

(b) [Qualifications of members.] Five of the members of the board shall be beauty operators who have been registered to practice in the State for at least five years and have been actively and continuously engaged in [either or both of the classified occupations] the practice of cosmetology for [such] that period and two shall be public members. [None of them shall be members of nor affiliated with any school teaching any of the classified occupations.]

(c) Board members affiliated with any school teaching any of the classified occupations shall disclose that affiliation and shall at all times adhere to the provisions of chapter 84 and the interpretations of that chapter by the state ethics commission.”

SECTION 6. Section 439-4, Hawaii Revised Statutes, is amended to read as follows:

**“§439-4 Officers of the board.** The board [of cosmetology] shall select a [chairman] chairperson annually. An executive secretary, assigned by the department [of commerce and consumer affairs], shall service the board.

The [chairman] chairperson of the board shall preside at all meetings and in the [chairman’s] chairperson’s absence the members present shall select a [chairman] chairperson pro tem.”

SECTION 7. Section 439-5, Hawaii Revised Statutes, is amended to read as follows:

**“§439-5 Meetings.** The board [of cosmetology] shall hold meetings at times as it deems necessary. A majority of the board shall constitute a quorum and the concurrence of a majority of the members present shall be necessary to make any action of the board valid.”

SECTION 8. Section 439-6, Hawaii Revised Statutes, is amended to read as follows:

**“§439-6 Power to investigate.** The [board of cosmetology or any member thereof,] department or any person designated by the [board] department for the purpose, may investigate any violation or suspected violation of this chapter. [Each member of the board may administer oaths in connection with any investigation.]”

SECTION 9. Section 439-7, Hawaii Revised Statutes, is amended to read as follows:

**“§439-7 Rules.** The board [of cosmetology] may [make,] adopt, amend, and repeal rules as it deems proper to fully effectuate and carry out the purpose of this chapter which is declared to be the protection of the general public in its dealings with [hairdressers, cosmeticians, and cosmetologists.] practitioners of cosmetology or those training the practitioners. The rules shall be [made] adopted subject to chapter 91 and [shall be approved by the governor and the director of commerce and consumer affairs. They] shall have the force and effect of law.”

SECTION 10. Section 439-10, Hawaii Revised Statutes, is amended to read as follows:

**“§439-10 Apprentices[, students,] and instructor-trainees.** [An apprentice, student, or instructor-trainee] All apprentices and instructor-trainees shall be registered [and given a certificate to that effect] upon payment of application and registration fees and submission of evidence satisfactory to the board [of cosmetology] that the applicant is [at least]:

- (1) At least sixteen years of age[, is] and possessed of an education equivalent to the completion of [four years of] high school; and[, in]
- (2) In the case of an instructor-trainee, has the required three years of experience as a registered beauty operator.”

SECTION 11. Section 439-11, Hawaii Revised Statutes, is amended to read as follows:

**“§439-11 Application for examination.** Each person who desires to practice or instruct [in any of the classified practices or occupations] as a beauty operator or instructor shall file with the board [of cosmetology] a written application, under oath, on a form prescribed and supplied by the board and shall submit satisfactory proof of the required age and [educational] qualifications specified in section 439-12 and pay the required application and examination fees.”

SECTION 12. Section 439-12, Hawaii Revised Statutes, is amended to read as follows:

**“§439-12 Requisites for admission to examination [and registration].**  
(a) The executive secretary of the board [of cosmetology] shall determine the sufficiency of the preliminary qualifications of applicants for admission to

examinations [and registration]; provided that [there shall be only nine] the certification categories[, excluding apprentice, student, instructor-trainee, temporary operator, junior operator, temporary instructor, and technician certification; and provided further that the board may modify the number of categories only if approved by a two-thirds vote of the board.] shall be limited to cosmetologist, hairdresser, cosmetician, manicurist, and instructor. The [following] preliminary qualifications for admission to examination shall be [sufficient:] as provided in this section.

- (1) An operator may be registered in any of the classified practices or occupations under this chapter upon the payment of application, examination, and registration fees for each of the practices or occupations or any one or any combination of the practices or occupations, provided the operator has an education equivalent to the completion of four years of high school and has either (A) served the required time as an apprentice under the supervision of a registered operator or instructor, as determined by the board for any one or combination of the practices but not less than one year including two thousand hours for each of the two classified occupations; or (B) has acquired the equivalent training in a registered school, and has passed the prescribed examination or examinations to the satisfaction of the board; and provided further that an applicant may be registered solely in the classified practice of a manicurist and an applicant so registered may engage in a classified practice in a barber shop, a beauty shop, or in the applicant's own shop upon serving seven hundred hours of time as an apprentice under the supervision of a registered operator or instructor or three hundred fifty hours of training in a registered school and upon satisfying all the other requirements of this section; and provided further that an applicant may be registered solely as a "Hair Cosmetician" in the classified occupation of a cosmetician upon serving one thousand two hundred hours of time as an apprentice under the supervision of a registered operator or instructor or six hundred hours of training in a registered school and upon satisfying all the other requirements of this section. Any applicant who fails an initial examination shall thereafter pay the examination fee for any subsequent examination.

Any person who has taken but has not successfully passed the examination or examinations prescribed by the board for any one or any combination of the practices or occupations but who has satisfied all the other requirements of this section may be registered as a "Junior Operator" and may work in a beauty shop under the supervision of a licensed operator in the practices or occupations in which the person has been examined so long as the person continues to take the prescribed examination or examinations in good faith. Failure or refusal on the part of a "Junior Operator" to take any prescribed examination or examinations shall be sufficient reason for the revocation of the registration by the board.]

(b) A cosmetologist applicant shall be at least sixteen years old and have an education equivalent to the completion of high school and either:

- (1) Three thousand six hundred hours of training as an apprentice under the supervision of a registered cosmetologist; or
- (2) One thousand eight hundred hours of training in a registered beauty school.

(c) A hairdresser applicant shall be at least sixteen years old and have an education equivalent to the completion of high school and either:

- (1) Two thousand five hundred hours of training as an apprentice under the supervision of a registered cosmetologist or hairdresser; or
- (2) One thousand two hundred fifty hours of training in a registered beauty school.

(d) A cosmetician applicant shall be at least sixteen years old and have an education equivalent to the completion of high school and either:

- (1) One thousand one hundred hours of training as an apprentice under the supervision of a registered cosmetologist or cosmetician; or
- (2) Five hundred fifty hours of training in a registered beauty school.

(e) A manicurist applicant shall be at least sixteen years old and have an education equivalent to the completion of high school and either:

- (1) Seven hundred hours of training as an apprentice under the supervision of a registered cosmetologist, cosmetician, or manicurist; or
- (2) Three hundred fifty hours of training in a registered beauty school.

[(2) Instructors] (f) An instructor applicant may [be registered] apply in any of the [classified] practices [or occupations upon the payment of application, examination, and registration fees, provided the instructors have] of cosmetology if the applicant has completed a course satisfactory to the board in the theory and practice of education in cosmetology consisting of six hundred hours and [have] has served actively for a period of at least three years as a registered beauty operator in the State or in another jurisdiction having standards for registration [in the particular practice or occupation] as a beauty operator substantially equivalent to those of the State [and have passed an examination satisfactory to the board]; provided that the board may at its discretion and without regard to the requirements of this section, issue and revoke a temporary [certificate] permit to any person holding a valid existing instructor's [license] registration in another [territory, county, or state] jurisdiction having standards substantially equivalent to those in force in the State at the time of the registration, for the limited purpose of either [(A) commercially]:

- (1) Commercially demonstrating in the State, any hair or cosmetic preparations or products identifiable by a trade name or trademark; or [(B) instructing]
- (2) Instructing in hairstyling in a [registered] school or under the sponsorship of any organization approved by the board until the next following instructor's examination given by the board. Instructors duly registered under chapter 453, need not be holders of instructors certificates."

SECTION 13. Section 439-13, Hawaii Revised Statutes, is amended to read as follows:

**"§439-13 Admission to examination.** If the board [of cosmetology] finds that the applicant has [obtained the credentials] met the qualifications necessary for admission to the examination, the board shall admit the applicant to examination[, or registration]."

SECTION 14. Section 439-14, Hawaii Revised Statutes, is amended to read as follows:

**“§439-14 Examination.** (a) The board shall contract with [the same] a professional testing service [as the board of barbers] to have the testing service prepare and provide examinations for applicants as may be required for the purposes of this chapter. The examinations shall not be confined to any specific system or method, and the examinations shall be consistent with the practical and theoretical requirements of the occupations as provided by this chapter[; provided that the practical examination for waving and hair coloring shall be the same as the practical examination administered to barbers]. The examinations shall[,] be given on a regular basis or whenever is appropriate, and be updated and revised based on the current job analysis surveys and other data and information relevant to the practice of cosmetology.

(b) Every applicant who is required by the board to be examined shall pay an examination fee as provided in rules adopted by the director pursuant to chapter 91. The examination fee may be paid directly to the professional testing service by the director or the examinee or deposited with the director of finance to the credit of the general fund.

(c) An applicant who fails an initial examination thereafter may file another application with the board and pay the application and examination fees for any subsequent examination.

(d) A temporary permit may be issued upon request, to an applicant required to be examined as prescribed in section 439-16.”

SECTION 15. Section 439-15, Hawaii Revised Statutes, is amended to read as follows:

**“§439-15 Certificates of registration, fees.** (a) The board [of cosmetology] shall issue a certificate of registration as [apprentice, student, instructor-trainee,] a beauty operator, or instructor, as the case may be, to each person who passes the required examination, pays the proper fees, and meets all of the other requirements of this chapter. The certificate shall state specifically the [occupation] certification category for which the person is registered and shall be signed by the [chairman] chairperson and executive secretary and impressed with the seal of the board.

(b) All certificates issued by the board expire on December 31 of each odd-numbered year.

(c) Every registered beauty operator and instructor shall pay to the board [between] by December [1 and] 31 of each odd-numbered year a biennial renewal fee. The payment of the renewal fee shall entitle the registrant to renewal of the certificate.

(d) Failure or refusal to renew the certificate by December 31 of each odd-numbered year shall constitute a forfeiture of the certificate. The certificate [of an apprentice, operator, or instructor] shall be reinstated upon payment of all delinquent fees and a penalty fee if application is made within three years after lapse.

(e) All fees required by this chapter shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91.”

SECTION 16. Section 439-16, Hawaii Revised Statutes, is amended to read as follows:

**“§439-16 Temporary [certificates.] permits.** The board [of cosmetology] may issue temporary [certificates authorizing the person concerned] permits to qualified applicants approved to be examined to practice [as an operator] cosmetology under supervision of a registered beauty operator until the results of the [next examinations have] examination has been



published. Applicants who have not successfully passed the examination as prescribed by the board but continue to satisfy the requirements of section 439-14(c) may be issued temporary permits; provided that applicants shall pass the third examination as consecutively scheduled by the board. After failing to pass the third examination, applicants that satisfy the requirements of section 439-14(c) shall continue to qualify for examination and registration but not for the privilege of temporary permits. The [certificate] permits may be issued upon application [only to a person who has paid the usual application and examination] for examination and payment of the required fees [and]. In addition to those applicants who satisfy the requirements of section 439-14(c), an applicant who possesses one of the following qualifications[:] may be issued a temporary permit:

- (1) Is a graduate of a school and course which meet the standards established for schools in the State;
- (2) Has been, for three out of the four years immediately preceding the date of the application, lawfully engaged in another state, territory, or country in the occupation covered by the certificate sought; or
- (3) Holds a valid and existing license to engage in the occupation covered by the certificate sought in a state, territory, or country having standards for registration substantially equivalent to those in force in the State at the time of the application.”

SECTION 17. Section 439-17, Hawaii Revised Statutes, is amended to read as follows:

“**§439-17 Beauty shops.** (a) A certificate of registration of a beauty shop may be secured by filing an application [therefor] and paying the application and registration fees and showing that the shop has been inspected not more than one year before the application was filed and meets the standards of sanitation required by the [rules of the] department of health, that a registered [managing] beauty operator [who has practiced as a registered operator in the State for at least one year] in the appropriate certification category is in charge of the shop, and that it is adequately equipped for the practices in which it engages. The board may waive the requirement that the registered managing operator [have] has practiced in the State, for at least one year, upon a showing that the person has had other experience as a managing operator equivalent to one year’s practice in this State and upon further showing that the aforesaid requirement creates undue hardship on the shop.

(b) All certificates shall expire on December 31 in each odd-numbered year. Certificates may be renewed by payment of a biennial fee prior to the date of expiration. A lapsed certificate may be [reissued] reinstated upon payment of [the renewal fee] all delinquent fees and a penalty fee.

(c) Nothing in this chapter shall prohibit registered beauty operators within a beauty shop from teaching any of the practices of [the classified occupations] cosmetology in which the beauty operator is registered in the regular course of business; provided that the owners or [managers] beauty operators do not hold themselves out as a school, and do not hire or employ or teach, regularly, at any one time, more than one apprentice unless there is one beauty operator regularly employed in the business for each apprentice.

(d) The beauty shop owner shall be responsible for all operations of the shop and shall be responsible to see that only currently registered individuals are performing cosmetology practices in the shop.”

## ACT 154

SECTION 18. Section 439-18, Hawaii Revised Statutes, is amended to read as follows:

**“§439-18 Schools.** (a) Any person may apply to the board [of cosmetology] for a certificate of registration as a school [of any of the practices of the classified occupations,] in the practice of cosmetology, upon the payment [to the board] of application and initial registration fees [for the first year of the registration]. Thereafter an annual registration fee shall be based on student enrollment.

(b) No school shall be granted a certificate of registration unless it attaches to its staff a regularly licensed physician and employs and maintains a sufficient number of registered instructors, and requires a course of training of a proportioned number of hours as approved by the board, for any of the [classified practices, provided the total shall not be less than eighteen hundred hours,] certification categories, to include both practical demonstrations, written and oral tests, and practical instruction in sanitation, sterilization, and the use of antiseptics consistent with the practical and theoretical requirements applicable to the [classified occupations.] practice of cosmetology.

All certificates shall expire on December 31 next following the date of issue, but may be renewed by payment of the annual registration fee prior to the date of expiration. A lapsed certificate may be [reissued] reinstated upon the<sup>1</sup> payment [of the renewal fee and a penalty of the same amount as the required annual registration fee.] of all delinquent fees and a penalty fee.”

SECTION 19. Section 439-19, Hawaii Revised Statutes, is amended to read as follows:

**“§439-19 Refusal to grant and revocation and suspension of certificates.** (a) The board [of cosmetology may refuse to grant, renew, reinstate, or restore any certificate required under this chapter, whether covering the registration of an apprentice, student, cosmetologist, operator, instructor, school, or shop, for any cause which would be grounds for revocation of a certificate under this section. The board may, nevertheless, renew, reinstate, or restore any certificate when it determines that action is just and may be done consistently with the accomplishment of the purpose of this chapter.

(b) The board may revoke or suspend any certificate, whether covering the registration of an apprentice, student, cosmetologist, operator, instructor, school, or shop, for any of the following causes:

- (1) Professional misconduct, gross carelessness, or manifest incapacity;
- (2) Violation of any of the provisions of this chapter or the rules adopted pursuant thereto or any other law which applies to the person in the occupation covered by the certificate;
- (3) Making any false representation or promise through advertising or otherwise or in any manner dealing fraudulently or dishonestly in the occupation covered by the certificate;
- (4) Habitual intemperance in use of alcoholic beverages or addiction to the use of narcotic drugs; or
- (5) Failing to display the certificate as provided in this chapter.

No certificate shall be suspended for longer than two years.] may take disciplinary action against any certificate or registration issued under this chapter, including but not limited to revocation, suspension, fine, or a combination thereof, or refuse to grant or renew any certificate or registration for any of the following causes:

- (1) Procuring a certificate through fraud, misrepresentation, or deceit;
- (2) Professional misconduct, gross carelessness, or manifest incapacity;
- (3) Permitting an uncertified person to perform activities which require a certificate under this chapter;
- (4) Violation of this chapter or the rules adopted pursuant thereto;
- (5) Making any false representation or promise through advertising or otherwise;
- (6) Failing to display the certificate as provided in this chapter;
- (7) Any other conduct constituting fraudulent or dishonest dealings;
- (8) Failing to comply with a board order; or
- (9) Making a false statement on any document submitted or required to be filed by this chapter.

(b) Any person who violates this chapter or the rules adopted pursuant thereto shall be fined not less than \$100 nor more than \$1,000 for each violation."

SECTION 20. Section 439-20, Hawaii Revised Statutes, is amended to read as follows:

**"§439-20 Hearing.** In every case where it is proposed [to refuse to grant, renew, reinstate, or restore a certificate or] to revoke or suspend the exercise of [one] a certificate for any of the causes enumerated in section 439-19, the person concerned shall be given notice and opportunity for hearing in conformity with chapter 91. Any person aggrieved by the denial or refusal of a certificate by the board, shall submit a request for a hearing pursuant to chapter 91 within sixty days of the date of the denial or refusal. The notice of hearing shall be given at least five days before the hearing.

In all proceedings before it, the board [of cosmetology] and each member thereof shall have the same powers respecting administering oaths, compelling the attendance of witnesses, and the production of documentary evidence, and examining witnesses, as are possessed by circuit courts. In case of disobedience by any person of any order of the board, or any member thereof, or of any subpoena issued by it, or any member, or the refusal of any witness to testify to any matter regarding which the witness may lawfully be questioned, any circuit judge, on application by the board, or any member thereof, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein."

SECTION 21. Section 439-21, Hawaii Revised Statutes, is amended to read as follows:

**"§439-21 Board to aid prosecution.** The board [of cosmetology] shall aid prosecuting officers in the prosecution of persons charged with violations of this chapter."

SECTION 22. Section 439-22, Hawaii Revised Statutes, is amended to read as follows:

**"§439-22 Penalty.** Any person who practices [any of the occupations,] cosmetology, maintains a school or a beauty shop, or acts in any capacity wherein a certificate is required, without a certificate as provided in this chapter, shall be fined not more than \$100, or imprisoned not more than ninety days, or both. Each and every day of violation shall be [construed] a separate offense."

SECTION 23. Section 439-8, Hawaii Revised Statutes, is repealed.

## ACT 155

SECTION 24. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 25. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

### Notes

1. "The" should be underscored.
2. Edited pursuant to HRS §23G-16.5.

## ACT 155

H.B. NO. 528

A Bill for an Act Relating to Industrial Loan Companies:

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 167, Session Laws of Hawaii 1983, is amended by repealing section 8.

["SECTION 8. Section 408-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every industrial loan company, in addition to the powers exercisable by or conferred upon it under or by the general corporation law of the State or by any other provision of this chapter, shall possess and may exercise the following powers:

- (1) To borrow money upon its own secured or unsecured notes;
- (2) To lend money upon individual credit or upon the security of comakers, personal endorsement, or the pledge or mortgage of real or personal property or choses in action, or upon any combination of such credit and security, and to contract for such interest, discount, or other consideration as is permitted by this chapter, and to sell or broker, loans or contracts, in whole or in part, to other lenders, and charge or retain a fee for the originating, selling, brokering, or servicing of such loans or contracts;
- (3) To discount, purchase, or otherwise acquire notes, installment contracts, warehouse receipts, or other choses in action[, notwithstanding section 416-31 to the contrary];
- (4) To establish branches within the State with the prior written approval of the bank examiner;
- (5) To finance purchases for others by taking title to merchandise temporarily and only for the purpose of securing loans entered into for the purchases;
- (6) To issue and sell certificates for the payment of money at any time, either fixed or uncertain, including without limitation evidences of thrift accounts as defined in chapter 408A, and to receive amounts invested therein in installments or otherwise, with or without allowance of interest on such investments. A company may, but need not, require an investor to subscribe to a certain amount of investment in such certificates, subject to minimum or maximum investments required by law or rules. Nothing herein shall be construed to authorize any industrial loan company to receive deposits or to create any liability due on demand.""]

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

## ACT 156

H.B. NO. 534

A Bill for an Act Relating to Night Hunting.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 183D-27, Hawaii Revised Statutes, is amended to read as follows:

**“§183D-27 Night hunting on private lands; prohibition.** Notwithstanding section 183D-26, no person shall take or pursue any game bird, game mammal, wild bird, or wild mammal at night on privately owned lands[.], except as authorized by the department pursuant to section 183D-61. For the purpose of this section, “night” means the period between one-half hour after sunset and one-half hour before sunrise.”

SECTION 2. Section 183D-61, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [The] Notwithstanding the provisions contained in this chapter, the department may adopt rules pursuant to chapter 91:

- (1) Authorizing the taking and collecting of wild birds, game birds, and game mammals for scientific and educational purposes, or for the purpose of distributing wild birds to different localities in the State pursuant to this title;
- (2) Authorizing the keeping of wild birds in captivity for the protection, treatment for injury or disease, propagation, and [such] other similar purposes [as are] consistent with the preservation, protection, and conservation of wild birds;
- (3) Authorizing the taking and destruction of those wild birds, game birds, and game mammals the department may have found after investigation to be destructive to crops or to other game birds and game mammals or otherwise harmful to agriculture or aquaculture, or to constitute a nuisance or a health hazard; or
- (4) Authorizing without requiring permits or reports, the destruction within a district of wild birds, game birds, and game mammals which are generally destructive to crops or otherwise harmful to agriculture or aquaculture, or constitute a nuisance or a health hazard within the district.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

## ACT 157

H.B. NO. 872

A Bill for an Act Relating to Asbestos Control and Licensing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Findings and purpose. The Legislature finds that the improper performance of asbestos application, enclosure, removal, and encapsulation creates serious and unnecessary health and safety hazards to the citizens of this State. These hazards not only pose a clear threat to the health and safety of individual workers and their families, but also threaten the interests of the State as a whole through lost wages, and rising insurance costs, medical expenses, and disability compensation costs.

The Legislature therefore declares its intent to reduce asbestos-related hazards by ensuring that only properly trained contractors engage in asbestos-related activities, that clear standards for the performance of such activities are established, and that the health and safety of individual workers receive the highest priority.

SECTION 2. Chapter 444, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§444- Asbestos contractors.** (a) The board shall provide for the licensure or permitted activities as a specialty contractor of any person who engages in any activity involving the application, enclosure, removal, encapsulation, renovation, repair, demolition, or other disturbances of friable asbestos or asbestos-containing material that may become friable during the activity; provided that this section shall not apply to activities such as maintenance, repair, or removal of asbestos pipe or sheets, vinyl asbestos floor materials or asbestos-bituminous or resinous material as well as other activities that the board may exempt which are incidental to the primary purpose for which the contractor holds a license and if they were performed in a manner that no health hazard is posed to the public, the contractor, or the contractor's employees.

(b) No person shall be licensed as an asbestos contractor unless that person meets all requirements of subsection (c) in addition to the requirements in section 444-11.

(c) The licensing requirements and procedures, and the standards of conduct for individuals licensed as an asbestos contractor shall be as provided by rules and shall include, but shall not be limited to, provisions for the following:

- (1) Examination;
- (2) Registration of employees;
- (3) Training, experience, and any other certification standards for contractors and their employees;
- (4) Protective equipment standards;
- (5) Application, enclosure, removal, encapsulation, renovation, repair and demolition procedures;
- (6) Hazardous waste disposal;
- (7) Clean-up procedures;
- (8) Monitoring;
- (9) Health examinations;
- (10) Continuing education;
- (11) Administrative procedures; and
- (12) Fees.

The board shall consult with and shall initiate and maintain cooperative agreements with the departments of health, and labor and industrial relations, or any other state, federal, or county departments or agencies and the University of Hawaii or their community colleges in the development of these rules, and to develop procedures and methods for the enforcement of any asbestos activity.

(d) The board, the departments of commerce and consumer affairs, labor and industrial relations, and the department of health shall have the right of entry to any job site and access to any records of the licensee for purposes of inspection for health or safety hazards. Each agency shall be empowered to apply to a court of competent jurisdiction for an order restraining any activity at the job site which constitutes an imminent health or safety hazard.

(e) Any person who knowingly hinders or delays the board or the above departments in the performance of their duties, who knowingly fails to obtain the licenses or registrations required by this section, or otherwise knowingly violates this section shall be guilty of a misdemeanor.

(f) The board may, in addition to any other remedies provided by law, and after a hearing conducted pursuant to chapter 91, assess a fine not to exceed \$5,000 for each violation of this section. For purposes of this subsection, each day's violation shall constitute a separate violation."

SECTION 3. Any person who currently possesses a classified specialty license of C-68, for the removal of asbestos or a classified specialty license of C-24, for a building, moving and wrecking contractor, shall have one year from the effective date of this Act to obtain licensure under section 2 of this Act and after that date shall not engage in the application, enclosure, removal or encapsulation of asbestos or asbestos-containing material unless licensed under section 2 of this Act.

SECTION 4. The contractors license board shall adopt all rules required under section 2 of this Act within one year of the effective date of this Act.

SECTION 5. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 1987.

(Approved June 5, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 158**

H.B. NO. 890

A Bill for an Act Relating to Mental Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 334E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§334E- Investigation procedures.** (a) In an investigation pursuant to section 334E-2(c), the department of health may:

- (1) Make inquiries and obtain information as deemed necessary;
- (2) Enter without notice to inspect the premises of a psychiatric facility; provided that such entry shall be authorized by the department in writing and that such authorization shall be furnished upon entry to the person in charge of the facility; and
- (3) Hold private hearings.

(b) The department of health shall maintain secrecy in respect to all matters including the identities of the complainants or witnesses, except so

## ACT 159

far as disclosures may be necessary to enable it to carry out duties and to support recommendations.”

SECTION 2. Chapter 334E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§334E- Powers. Subject to the privileges which witnesses have in the courts of this State, the department of health in an investigation pursuant to section 334E-2(c) may:

- (1) Compel at a specified time and place, by a subpoena, the appearance and sworn testimony of any person who the department of health reasonably believes may be able to give information relating to a matter under investigation; and
- (2) Compel any person to produce documents, papers, or objects which the department of health reasonably believes may relate to a matter under investigation.

The department of health may bring suit in an appropriate state court to enforce these powers.”

SECTION 3. Chapter 334E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§334E- Penalty for obstruction. A person who wilfully hinders the lawful actions of the department of health pursuant to an investigation carried out under section 334E-2(c), or wilfully refuses to comply with its lawful demands, may be fined up to \$1,000.”

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 159

H.B. NO. 898

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 359G-20.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Repayment of allowance.

- (1) The eligible borrower shall repay to the authority all allowance funds paid to the mortgagee on the borrower’s account plus interest to the date of repayment at [the rate defined in section 359G-7.] a rate established in accordance with section 359G-30.
- (2) Repayment shall be due at the end of the tenth year after the closing of the qualifying loan or on or before the date of conveyance if the eligible borrower conveys the dwelling unit pursuant to section 359G-9.1.
- (3) In the event the dwelling unit is not conveyed after the tenth year, the eligible borrower may repay the loan account balance to the authority over a five-year period at an interest rate as defined



in section [359G-7.] 359G-30. The authority may approve such a loan based on the capacity of the eligible borrower at that time.

- (4) To secure the indebtedness of the allowance in the event the dwelling unit is not conveyed, the borrower shall execute a promissory note or any other instrument of indebtedness as the authority may require."

SECTION 2. Section 359G-30, Hawaii Revised Statutes, is amended to read as follows:

**"§359G-30 Arbitrage provision; interest rate.** (a) Any other provision of law to the contrary notwithstanding, neither the authority nor the director of finance shall make loans or purchase mortgages from the proceeds of general obligation bonds of the State or from a revolving fund established or maintained from the proceeds of such bonds, at a rate of interest which would cause any general obligation bond of the State to be an "arbitrage bond," as defined in [subsection (d)(2) of section 103 of] the Internal Revenue Code of [1954] 1986, of the United States of America [as now in effect, subject to treatment under subsection (d)(1) of such section 103 as an obligation not described in subsection (a)(1) of said section 103].

(b) The rates of interest on loans made under this chapter shall be established by the authority, with the approval of the director of finance, after each sale of general obligation bonds of the State, the proceeds of which are to be used for the purposes of this chapter. In the event that no such sale intervenes in a twelve-month period after the last rate fixing, the authority may review the then existing rates on loans made under this chapter and retain the existing rate or, with the approval of the director of finance, establish different rates.

(c) The director of finance shall approve such rates so as to produce up to but not in excess of the maximum yield to the State permitted under [such section 103(d)(2) of] the [United States] Internal Revenue Code of [1954,] 1986, on the assumption that the general obligation bonds, the proceeds of which are to be used for the purposes of this chapter, would otherwise be "arbitrage bonds" under that section were such maximum yield to be exceeded. The establishment of the rates of interest shall be exempt from chapter 91."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

## ACT 160

H.B. NO. 892

A Bill for an Act Relating to Sale of Hunting Licenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 183D-29, Hawaii Revised Statutes, is amended to read as follows:

**"§183D-29 Agents to sell licenses.** (a) The department may designate agents to sell hunting licenses in accordance with this section. [Each agent shall be bonded by the department in a sum which shall cover the value of the licenses delivered to the agent. The bond shall secure the faithful

## ACT 161

accounting and payment to the department of the funds collected from the sale of the licenses.] Agents shall report all sales of licenses to the department monthly and not later than the fifteenth day of the month following the month covered by the report. Wilful failure to make a report shall be cause for cancellation of the agency and upon the cancellation a full accounting and settlement for all licenses shall be made forthwith. All fees collected shall be remitted to the department at the same time as the report of license sales is made. If the agents prepay for the licenses, then the fees collected shall be retained by the agents, rather than remitted to the department.

(b) Agents shall receive [five] ten percent of the value of licenses sold [and the sum shall be deducted from the total value of fees collected before remittance is made]. All reports on license sales shall be made on forms supplied by the department. The duly authorized agents of the department may administer<sup>1</sup> oaths as<sup>2</sup> required in license applications. Chapter 40 shall not apply to the agents."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

### Notes

1. Prior to amendment, "such" appeared here.
2. Prior to amendment, "are" appeared here.

## ACT 161

H.B. NO. 903

A Bill for an Act Relating to Family Court.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 571-52, Hawaii Revised Statutes, is amended to read as follows:

**"§571-52 Assignment by court order of future [wages] income for payments of support.** (a) Whenever any person has been ordered to pay an allowance for the support, maintenance, or education of a child, or for the support and maintenance of a spouse or former spouse, and fails or refuses to obey or perform the order, and has been adjudged guilty of contempt of court for such failure or refusal, the court may make an order which shall operate as an assignment by the person for the benefit of the child or spouse, of such amounts at such times as may be specified in the order, from [the salary, wages, or other] any income due or to become due in the future to such person from the person's employer or successor employers, until further order of the court. The assignment of the amounts shall be to the clerk of the court where the order is entered if for the support or maintenance of a spouse or former spouse, or to the child support enforcement agency if for the support, maintenance, or education of a child or if child support and spouse support are contained in the same order. The order of assignment shall be effective immediately after service upon an employer of a true copy of the order, which service may be effected by certified or registered mail or by personal delivery. Thereafter, the employer shall for each pay period withhold from [the salary, wages, or other] any income due to the person from the employers,<sup>1</sup> and not required to be withheld by any other provision of federal or state law, and transmit to the clerk of the court or child support

enforcement agency as set forth in the order, as much as may remain payable to the person for such pay period up to the amount specified in the order of assignment as being payable during the same period. The person ordered to pay shall inform the court immediately of any change which would affect the order of assignment or the disbursement thereof. Compliance by an employer with the order of assignment shall operate as a discharge of the employer's liability to the employee for that portion of the employee's [earnings] income withheld and transmitted to the clerk of the court or child support enforcement agency, as the case may be, whether or not the employer has withheld the correct amount. The term "employer" as used in this section includes the United States government, the State, [and] any political subdivision thereof and any person who is or shall become obligated to the obligor for payment of income.<sup>1</sup>

(b) Notwithstanding the provisions of subsection (a), whenever a court has ordered any person (hereinafter "obligor") to make periodic payments toward the support of a child and, upon petition of the person to whom such payments are ordered to be made, or that person's assignee, the court finds the obligor to be delinquent in payments in an amount equal to or greater than the sum of payments which would become due over a one-month period under the order<sup>1</sup> judgment<sup>1</sup> or decree providing for child support, the court shall order an assignment of future [earnings or] income, or a portion thereof, of the obligor in an amount adequate to insure that past due payments and payments which will become due in the future under the terms of the support order will be paid. Such an order shall operate as an assignment by the obligor to the child support enforcement agency and shall be binding upon any person who is or shall become obligated to the obligor for payment of [earnings or] income and who has been served with a certified copy of the assignment order. For each payment made pursuant to an assignment order, the person making such payment may deduct and retain as an administrative fee the additional amount of \$2 from the [earnings or] income owed to the obligor. Any assignment made pursuant to an assignment order shall have priority as against any garnishment, attachment, execution, or other assignment order, or any other order unless otherwise ordered by the court and the same shall not be subject to any of the exemptions or restrictions contained in part III of chapter 651, and chapters 652 and 653.

For purposes of this subsection, delinquencies in payments shall be computed on the basis of the moneys owed and unpaid on the date that the obligor under the support order has been given notice pursuant to law of the application for the order of assignment, and the fact that the obligor may have subsequently paid such delinquencies shall not relieve the court of its duty under this subsection to order the assignment.

(c) It shall be unlawful for any employer to refuse to hire a prospective employee, to discharge an employee, or to take any other disciplinary action against an employee, based in whole or part<sup>1</sup> upon an assignment authorized by this section. Any employer violating this section shall be guilty of a misdemeanor under section 710-1077(1)(g).

(d) Notwithstanding any other provision of law, [the provisions of this section shall be applicable to all moneys payable to any obligor] for purposes of this section, the term "income" shall include without limitation, salaries, wages, earnings, workers' compensation, disability benefits, commissions, independent contractor income, and any other entitlement to money including moneys payable as a pension or as an annuity or retirement or disability or death or other benefit, or as a return of contributions and interest thereon from the United States government, or from the State or

## ACT 161

other political subdivision thereof, or from any retirement, disability, or annuity system established by any of them pursuant to statute.”

SECTION 2. Section 571-52.2, Hawaii Revised Statutes is amended to read as follows:

**“§571-52.2 Automatic assignment by court order of future [wages] income for payment of child support.** (a) Notwithstanding section 571-52, the court shall order an assignment of future [earnings or] income when:

- (1) The court has ordered any person (hereinafter the “obligor”) to make periodic payments toward the support of a child pursuant to a court order, judgment, or decree;
- (2) The court order, judgment, or decree provides for an automatic assignment of the obligor’s [wages] income upon the obligor’s failure to timely pay any child support that the obligor is required to pay through the child enforcement support agency or directly to the obligee; and
- (3) The child support enforcement agency finds the obligor to be delinquent in payments in an amount equal to or greater than the sum of payments which would become due over a one month period under the order, judgment, or decree providing for child support and notifies the court.

The order shall take effect without necessity of further action of the court or application of the custodial parent or child support enforcement agency, except when a hearing is requested under subsection (c).

(b) The court, on its own motion, may order an assignment of future [earnings or] income, or a portion thereof, of the obligor in an amount adequate to insure that past due payments and payments which will become due in the future under the terms of the support order will be paid.

(c) The court or the clerk of the court shall provide the obligor written notice at least fourteen days in advance of entering an automatic [wage] income assignment and inform the obligor the automatic [wage] income assignment will issue on a certain date unless the obligor files with the court or the clerk of the court a written objection to the automatic assignment and a written request for a hearing. If the obligor files the written objection and the written request, the court or the clerk of the court shall not issue the automatic assignment of future [earnings or] income until a hearing is held and the matter resolved. The court shall establish and implement other notice procedures as may be necessary to adequately protect the obligor’s right to procedural due process.

(d) The order for automatic assignment shall operate as an assignment by the obligor to the child support enforcement agency and shall be binding upon any person who is or shall become obligated to the obligor for payment of [earnings or] income and who has been served with a certified copy of the assignment order. The assignment [shall remain in effect throughout the employment of the obligor and] shall be terminated when appropriate by the child support enforcement agency; provided that payment of all overdue support shall not be the sole basis for terminating the assignment. In the event that the obligee retains private counsel or proceeds pro se, the obligee shall have primary responsibility for terminating the assignment. If the obligee fails to terminate the assignment when appropriate, the obligee shall reimburse the obligor to the extent of any overpayment. If the assignment is not terminated when appropriate, the obligor may seek reimbursement for any overpayment from the obligee or the child support enforcement agency. The child support enforcement agency shall establish

procedures by rule in accordance with chapter 91 for the prompt reimbursement for any overpayment to the obligor.

(e) An employer receiving an assignment order shall send the amounts withheld to the child support enforcement agency within ten days after the [employee] obligor is paid. The employer shall begin withholding no later than the first pay period occurring within fourteen days following the date a certified copy of the order is mailed to the employer. An employer who is required to withhold amounts from the [earnings or] income of more than one [employee] obligor may remit a sum total of the amounts in one check, with a listing of the amounts applicable to each [employee] obligor.

(f) For each payment made pursuant to an assignment order, the person making such payment may deduct and retain as an administrative fee the additional amount of \$2 from the [earnings or] income owed to the obligor. Any assignment made pursuant to an assignment order shall have priority as against any garnishment, attachment, execution, or other assignment order, or any other order unless otherwise ordered by the court and the same shall not be subject to any of the exemptions or restrictions contained in part III of chapter 651, and chapters 652 and 653.

For purposes of this section, delinquencies in payments shall be computed on the basis of the moneys owed and unpaid on the date that the obligor under the support order has been given notice pursuant to law of the application for the order of assignment, and the fact that the obligor may have subsequently paid such delinquencies shall not relieve the court of its duty under this subsection to order the assignment.

(g) Any employer who fails to comply with an order of assignment of future [earnings or] income, as provided for under this section, shall be liable to the obligee or the obligee's assignee for whom support was required to be paid, for the full amount of all sums ordered to be withheld and transmitted and not otherwise done so.

(h) The only basis for contesting a withholding under this section is a mistake of fact, which, for purposes of this section, means an error in the amount of current or overdue support or in the identity of the alleged absent parent.

(i) In contested cases, the State shall notify the obligor within forty-five days, as to whether the withholding of the obligor's [earnings or] income will occur.

(j) Obligors may request withholding of their [earnings or] income prior to the entry of an order for the repayment of a delinquency.

(k) Notice of automatic [wage] income assignment after a one-month delinquency shall be included in every child support order entered hereafter in the State.

(l) The child support enforcement agency may allocate amounts withheld from the [earnings or] income of an obligor among more than one obligee if so ordered by the court.

(m) The provisions of section 571-52(c) and (d) shall apply to all orders for automatic assignments issued under this section.

(n) Notwithstanding any other provision of law, for purposes of this section, the term "income" shall include without limitation, salaries, wages, earnings, workers' compensation, disability benefits, commissions, independent contractor income, and any other entitlement to money including moneys payable as a pension or as an annuity or retirement or disability or death or other benefit, or as a return of contributions and interest thereon from the United States government, or from the State or other political subdivision thereof, or from any retirement, disability, or annuity system established by any of them pursuant to statute.

## ACT 162

The term "employer", as used in this section includes the United States government, the State, any political subdivision thereof and any person who is or shall become obligated to the obligor for payment of income."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon approval.

(Approved June 5, 1987.)

### Note

1. So in original.

## ACT 162

H.B. NO. 1158

A Bill for an Act Relating to Assistance to Displaced Persons.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 111-1, Hawaii Revised Statutes, is amended to read as follows:

**"§111-1 Findings and declaration of legislative purpose.** The legislature hereby finds and declares that it is in the public interest that persons lawfully residing on or lawfully occupying real property and displaced by any action undertaken by any state or county governmental agency should be compensated for such displacement under certain circumstances. The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of owners, tenants, other persons, and business concerns lawfully residing on or lawfully occupying real property and displaced by the acquisition of real property for public or other purposes in the public interest, and by building, zoning, [and other similar] and housing code enforcement activities, or by a program of voluntary rehabilitation of buildings or other improvements conducted pursuant to governmental supervision]."

SECTION 2. Section 111-2, Hawaii Revised Statutes, is amended by amending the definition of "displaced person" to read as follows:

"Displaced person" means any person who is lawfully residing on or lawfully occupying real property and is required to move from any real property on or after June 25, 1970, as a result of the acquisition or imminence of acquisition of such real property, in whole or in part, by a state agency or who moves from such real property as a result of the acquisition or imminence of acquisition by such state agency of other real property on which such person is lawfully conducting a business or farm operation. "Displaced person" also includes the foregoing movements from real property by any person lawfully residing on or lawfully occupying real property who is required to move from any real property as a result of [a governmental program of voluntary rehabilitation or building, zoning, and other similar] code enforcement activities. "Displaced person" as defined in this chapter shall not include a tenant upon or occupier of state land under a revocable permit which is issued or renewed on or after June 7, 1974, provided that those persons who are issued revocable permits on state land which they had previously occupied as lawful tenants or lawful occupiers of private land which is subsequently acquired by the State, by virtue of which

acquisition the revocable permits are issued immediately upon acquisition, shall be entitled to assistance as displaced persons upon displacement at the termination of the revocable permits. "Displaced persons" as defined in this chapter shall also not include a squatter or trespasser upon state land or any person unlawfully residing on or unlawfully occupying any real property."

SECTION 3. Section 111-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Code" means the housing, building, and zoning codes of the counties."

SECTION 4. Section 111-3, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) If any state agency displaces any person as a result of [zoning] code enforcement, that person shall be entitled to benefits under this section unless the displaced person is in any way responsible for the violation. The state agency shall have the right to recover from the party responsible for a [zoning] code violation any moneys paid out under [HRS,] chapter 111."

SECTION 5. Section 111-8.5, Hawaii Revised Statutes, is amended to read as follows:

**"[§111-8.5]] Reimbursement procedure.** (a) The state agency shall make a written demand for the amount due under this chapter from any person responsible for a [zoning] code violation. Such amount shall be recoverable by the state agency in the same manner as a debt due.

(b) If the owner of real property from which persons are forced to move because of [zoning] code enforcement is the person responsible for the [zoning] code violation, and the owner fails to pay the state agency within sixty days after written demand, the state agency may claim a lien against the real property from which persons are displaced. This lien shall be in addition to any other remedy the state agency may have. Such lien may be foreclosed in the same manner as liens for real property taxes and in accordance with sections 246-55 to 246-61.

(c) Payments in accordance with this section to the state agency by the party responsible for the [zoning] code violation shall not relieve the party from complying with the notices ordering compliance with codes issued by the state agency."

SECTION 6. Section 111-12, Hawaii Revised Statutes, is amended to read as follows:

**"§111-12 Appeals.** Any person aggrieved by a state agency's determination concerning eligibility for an amount of relocation payments authorized by this chapter or by a determination that the party is responsible for a [zoning] code violation may appeal such determination to the circuit court of the circuit in which the displaced person or party then resides. The appeal shall be made pursuant to the administrative procedure act set forth in chapter 91."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

## A Bill for an Act Relating to Airports.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 261, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§261- Airport facilities; collection of landing fees and other charges and fees.** (a) The department shall have a lien upon any aircraft landing upon any airport operated by it for landing fees and other charges and fees for the use of the services or facilities of the airport when payment of those charges and fees is not made immediately upon demand therefor to the operator or owner of the aircraft by a duly authorized employee of the department. The lien shall be for the full amount of the charges and fees and shall attach to any aircraft owned or operated by the person owing those charges and fees. The department shall not execute on the lien until it complies with the procedures set out in subsections (b) through (h) of this section.

(b) The department shall cause to be placed, upon the aircraft for which charges and fees are due, a notice which shall indicate that the operator or owner of the aircraft has failed to pay such charges and fees, the time the notice was posted, and an intention to perfect a lien on the aircraft and impound it if the operator or owner of the aircraft does not pay the charges and fees incurred within forty-eight hours of the posting of the notice.

(c) Any aircraft for which the department has served notice may be summarily and administratively impounded by the department if the charges and fees which the owner or operator of the aircraft has incurred have not been paid to the department before the expiration of the forty-eight-hour notice period.

(d) Within three days after the administrative impoundment of an aircraft pursuant to this section by the department, a second notice shall be sent by certified mail, return receipt requested, to the registered owner and the operator, if known, and, if the operator is other than the owner or a representative of the owner of the impounded aircraft, the second notice shall be sent to the operator at the last address shown on the aircraft registration records of the Federal Aviation Administration. This second notice shall be comprised of a copy of the notice posted on the impounded aircraft at the start of the forty-eight-hour notice period, together with a demand that the owner or operator of the impounded aircraft pay the charges and fees which have been incurred.

(e) Within thirty days of the impoundment by the department of an aircraft, the owner or operator of the aircraft may file a written request with the department for an administrative hearing. The sole issue to be considered at this administrative hearing is whether the owner or operator is not current in payments to the department for landing fees and other fees and charges for the use of services or airport facilities owned or operated by the department. The department shall have the burden of proof at this administrative hearing.

Within three days after receipt by the department of a written request for an administrative hearing from the owner or operator of the aircraft, the department shall conduct the requested hearing. In calculating the three-day period, weekends and holidays shall be excluded.



In all other respects, chapter 91 shall govern this administrative hearing.

(f) If it is determined by the director that the owner or operator of the impounded aircraft is current in payments to the department for charges and fees, the impounded aircraft shall be immediately released by the department to the aircraft owner or operator. In addition, the department shall bear the cost and expense of impounding the aircraft.

(g) If it is determined by the director that the owner or operator of the impounded aircraft is not current in payments to the department for charges and fees, the department may satisfy its lien out of the proceeds of any sale or auction of the impounded aircraft; provided that any remaining balance of the proceeds of the sale or auction, after deduction of the cost of maintenance, storage, and other costs related to the impoundment and the sale or auction conducted to satisfy the lien, shall be returned to the impounded aircraft owner or operator.

(h) An owner or operator of the impounded aircraft may also obtain immediate possession of the impounded aircraft by paying to the department, without an administrative hearing, all charges and fees owed by the owner or operator of the impounded aircraft and the cost and expense of impounding the aircraft incurred by the department.

(i) If the owner or operator of an impounded aircraft does not:

- (1) Request an administrative hearing within thirty days of the department's impounding of the aircraft; or
- (2) Pay the department all cost and expenses of impounding the aircraft and the charges and fees due and owing within fifteen days of a finding of probable cause that said charges and fees are due and owing,

the aircraft shall be disposed of by public auction, through oral tenders, or by sealed bids, after public advertisement has been made once in a newspaper of general circulation in the State; provided that the public auction shall not be held less than five days after the publication of the advertisement. Where no bid is received, the aircraft may be sold by negotiation, disposed of as junk, or donated to any governmental agency.

(j) Public auction shall not be required when the appraised value of any aircraft, as determined by an independent appraiser who has had at least one year of experience in the sale or purchase of aircraft, is less than \$100. Upon that determination and after public advertisement has been made once in a newspaper of general circulation in the State, the director may sell the aircraft by negotiation, dispose of it as junk, or donate the aircraft to any governmental agency.

(k) The transfer hereunder shall be evidenced by a bill of sale from the department, shall be considered a transfer by operation of law, and shall be governed by provisions applicable thereto.

(l) A purchaser of an aircraft sold to satisfy a lien pursuant to this section shall take the aircraft free of any rights of persons against whom that lien was valid."

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Plant and Animal Life, Seeds and Soils.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 150, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**“CHAPTER 150  
[PLANT AND ANIMAL LIFE, SEEDS AND SOILS]  
SEEDS”**

SECTION 2. Chapter 150, Hawaii Revised Statutes, is amended by amending Part I to read as follows:

**“PART I. [REGULATION OF IMPORTATION]  
GENERAL PROVISIONS**

**§150-1 Short title.** This chapter shall be known and may be cited as the “Hawaii Seed Law”.

**§150-2 Official certifying agency.** The department is designated as the official certifying agency for certifying seed for the State. The department may appoint an appropriate agent to do the work necessary for the certifications in compliance with established standards.”

SECTION 3. Section 150-21, Hawaii Revised Statutes, is amended to read as follows:

**“§150-21 Definitions.** As used in [sections 150-21 to 150-31:] this chapter:

[The terms shall be construed so as to conform insofar as possible with the construction placed upon the Federal Seed Act and regulations issued thereunder, and to effectuate its purpose and to make uniform the laws of this State with those of the states which have adopted it;] The terms shall conform insofar as possible with those of the Federal Seed Act and regulations issued thereunder.

“Advertisement” means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of [sections 150-21 to 150-31;] this chapter.

“Agricultural seeds” [means the seeds of all domesticated grasses and cereals, and of all legumes and other plants grown as turf, cover crops, forage crops, fiber crops, or field crops, and mixtures of such seeds, but does not include varieties which are generally known and sold as flower seeds or vegetable seeds;] includes the seeds of grass, forage, cereal, and fiber crops and other kinds of seeds commonly recognized within the State as agricultural seeds and mixtures of these seeds, and may include noxious weed seeds when the department determines that they are being used as agricultural seeds.

“Board” means the board of agriculture.

“Certifying agency” means (1) an agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which has standards and procedures approved by the U.S. Secretary of Agriculture to assure the genetic purity and identity of the seed certified; or (2) an agency of a foreign country determined by the U.S. Secretary of Agriculture to adhere to procedures and standards for seed certification

comparable to those adhered to generally by seed certifying agencies under (1).

“Chairperson” means the chairperson of the board of agriculture.

“Department” means the department of agriculture[.].

“Kind” means one or more related species or subspecies which singly or collectively is known by one common name, for example, corn, barley, lettuce, and alfalfa.

[“Label”] “Labeling” [means and] includes all labels[,] and other written, printed, or graphic representations[,] in any form whatsoever, including invoices, accompanying and pertaining to any seed [whether] in bulk or in containers[.].

“Lot” means a definite quantity of seed identified by a lot number, every portion or bag of which is uniform, within permitted tolerances, for the factors which appear in the labeling.

[“Noxious weed” means any species of plant which is liable to be detrimental or destructive and difficult to control or eradicate which has been defined or designated as a noxious weed by regulation of the department of agriculture;]

“Noxious weed seeds” means the seeds or bulblets of any plant species that not only reproduces by seed but also spreads by underground roots, stems, and other reproductive parts and which, when well established, is highly destructive and difficult to control or eradicate in the State by ordinary, good cultural practices.

“Person” includes any individual, partnership, corporation, company, society, or association.

The terms “pure seed”, “germination”, and other seed labeling and testing terms in common usage shall be defined as in the Rules for Seed Testing published by the Association of Official Seed Analysts.

“Type” means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.

“Variety” means a subdivision of a kind characterized by growth, plant, fruit, seed, or other characters by which it can be differentiated from other plants of the same kind.

“Vegetable seeds” [means] includes the seeds of those crops which are [or may be] grown in gardens [or] and on truck farms and are generally known and sold under the name of vegetable seeds[.]; in the State.

“Weed seeds” [means any and all noxious weed seeds, and any and all seeds not included in the definition of agricultural seeds, when occurring incidentally in agricultural seed.] includes noxious weed seeds and the seeds or bulblets of all plants generally recognized as weeds within the State.”

SECTION 4. Section 150-22, Hawaii Revised Statutes, is amended to read as follows:

“§150-22 Rules [and regulations]. Subject to chapter 91, the department [of agriculture] may [make] adopt rules [and regulations] with respect to:

- (1) [Plants which are to be considered as noxious weeds for the purpose of sections 150-21 to 150-31;] Designation of noxious weed seeds for the purpose of this chapter;
- (2) Maximum [amounts] amount of noxious weed seeds which may be found in agricultural or vegetable seeds sold or found in the State;
- (3) Germination standards for agricultural and vegetable seeds;

ACT 164

- (4) Inspection, sampling, and testing of seeds at the request of interested persons [interested therein], and charges to be made for [such] these services;
- (5) [Such further rules and regulations regarding the sale and labeling of seeds and the licensing of seed importers, including the license fee, as it may deem necessary to carry into effect the full intent and meaning of sections 150-21 to 150-31.] Minimum standards pertaining to the process of certifying seeds;
- (6)<sup>1</sup> Other requirements regarding the sale and labeling of seeds and licensing of seed importers, including the license fee, as it deems necessary to effectuate this chapter.

In [making] adopting rules [and regulations] with respect to standards for agricultural and vegetable seeds and tolerances of noxious weed seeds, the department shall follow as closely as practicable the standards and tolerances established under the Federal Seed Act.”

SECTION 5. Section 150-23, Hawaii Revised Statutes, is amended to read as follows:

“**§150-23 Prohibiting sales; germination tests.** [No person shall sell, or offer, or expose for sale any agricultural or vegetable seed for sowing purposes within the State unless:] A person may bring into the State and sell, offer, or expose for sale within the State any agricultural or vegetable seed for sowing purposes, provided:

- (1) The seed has been labeled in accordance with sections 150-24 and 150-25;
- (2) No false or misleading advertisement has been made with respect to the seed;
- (3) The amount of noxious weed seeds [are] is not in excess of tolerances established by the rules [and regulations] of the department [of agriculture];
- (4) A testing of the seed has been completed within nine months, exclusive of the calendar month in which the test was completed, to determine the percentage of germination[; provided that the]. The department [may], by [regulation] rule, may extend the nine-month limitation for seeds that have been packaged or processed under conditions that would greatly extend the viability of seeds.”

SECTION 6. Section 150-24, Hawaii Revised Statutes, is amended to read as follows:

“**§150-24 Agricultural seeds; labels.** Each container of agricultural seed that is brought into the State and sold or offered for sale within [this] the State for sowing purposes shall bear [thereon,] or have attached [thereto], in a conspicuous place, a plainly written or printed label or tag in the English language, giving the following information:

- (1) Commonly accepted name of:
  - (A) [kind] Kind; or
  - (B) [kind] Kind and variety[.]; or
  - (C) [kind] Kind and type of each agricultural seed component in excess of five per cent of the whole, and the percentage by weight of each in the order of its predominance.

Where more than one component is required to be named, the word “mixture” or [the word] “mixed” shall be shown conspicuously on the label.

- (2) Lot number or other lot identification assigned by the department [of agriculture].
- (3) Percentage by weight of all weed seeds.
- (4) [The name] Name and approximate number of each kind of noxious weed seeds to the extent required by rules [and regulations] of the department.
- (5) Percentage by weight of agricultural seeds other than those required to be named on the label.
- (6) Percentage by weight of inert matter.
- (7) For each named agricultural seed:
  - (A) [the] The percentage of germination, exclusive of hard seed[.];
  - (B) [the] The percentage of hard seed, if present[.]; and
  - (C) [the] The calendar month and year the test was completed to determine [such] the percentages.

Following (A) and (B), the additional statement, "total germination and hard seed", may be stated [as such,] if desired.

- (8) Name and address of the person who labeled the seed if it was labeled in the State. If not labeled within the State, the name and address of the person who imported the seed or caused the seed to be imported into the State.

The department, by rule, may require additional information on the label or tag for agricultural seeds that are packaged or processed, such as pelleted or coated seeds, and sold in specialized containers such as packets, [or] hermetically sealed containers, [sold on] tapes, or [sold in] any other innovative [procedure] method or container."

SECTION 7. Section 150-25, Hawaii Revised Statutes, is amended to read as follows:

**"§150-25 Vegetable seeds; labels.** Each container of vegetable seed that is brought into the State and sold or offered for sale within [this] the State for sowing purposes shall bear [thereon] or have attached [thereto], in a conspicuous place, a plainly written or printed label or tag in the English language, giving the following information:

- (1) Name of kind and variety of seed.
- (2) For seeds which germinate less than the standard last established by [the] rules [and regulations] of the department [of agriculture]:
  - (A) Percentage of germination, exclusive of hard seed.
  - (B) Percentage of hard seed, if present.
  - (C) The calendar month and year the test was completed to determine [such] the percentages.
  - (D) The words "below standard" in not less than eight-point type.
- (3) Name and address of the person who labeled the seed if it was labeled in the State. If not labeled within the State, the name and address of the person who imported the seed or caused the seed to be imported into the State.

The department, by rule, may require additional information on the label or tag [of] for vegetable seeds that are packaged or processed, such as pelleted or coated seeds, and sold in specialized containers such as packets, [or] hermetically sealed containers, [sold on] tapes, or [sold in] any other innovative [procedure] method or container."

## ACT 164

SECTION 8. Section 150-26, Hawaii Revised Statutes, is amended to read as follows:

**“§150-26 Removal from sale.** Any seed offered for sale in violation of [sections 150-21 to 150-31] this chapter or [of] any [rules or regulations] rule [made] adopted thereunder, shall[, in accordance with rules and regulations of the department of agriculture,] be removed from sale by the vender [thereof] upon [the vender’s] receiving notice from the department of [such] the violation. The vender shall withhold the seeds from sale until the violation has been corrected.”

SECTION 9. Section 150-27, Hawaii Revised Statutes, is amended to read as follows:

**“§150-27 [Inspectors.] Seed sampling and testing.** The department [of agriculture], through its authorized agents and inspectors, may enter any premises and procure a sample [from any lot, parcel, or package of seeds which is offered for sale or found in the State in bulk, sack, or package.] of seed offered for sale or found in the State in bulk, lot, sack, or package. The sample shall be divided into two approximately equal parts. Each part shall then be sealed and one part promptly delivered to the person possessing, selling, or offering for sale the seed, and the other to the laboratory maintained by the department. A label shall be placed on each sample stating the name of the contents, the name of the person from whose stock the sample was taken, and the time and place [of taking the sample.] the sample was taken. Each label shall be signed by an authorized agent of the department and by the owner, [or] custodian, or representative [thereof] of the lot, [parcel,] sack, or package from which the sample was taken[.] or by the owner, custodian, or representative of the seed found in bulk from which the sample was taken. The signature shall be affixed at the time of the sealing of [such] the sample. If the signature of the owner, custodian, or representative cannot be obtained, or is refused, that fact shall be noted on the label by the department. Upon [the] completion of the test of the sample, the department shall promptly forward a copy of the [result of the] test result to the person to whom a portion of the sample was delivered pursuant to this section.”

SECTION 10. Section 150-28, Hawaii Revised Statutes, is amended to read as follows:

**“§150-28 Laboratory and analytical procedure.** (a) The department [of agriculture] shall maintain a properly equipped laboratory for making [the test] tests required [by sections 150-21 to 150-31.] under this chapter.

(b) The method of sampling and testing of seed shall be based upon the rules for seed testing adopted by the Association of Official Seed Analysts [of North of America.] or as published in subchapter K of the Federal Seed Act.”

SECTION 11. Section 150-29, Hawaii Revised Statutes, is amended to read as follows:

**“§150-29 Importers; licenses.** No person shall import or cause to be imported into the State for purposes of sale or resale, any agricultural or vegetable [seeds] seed for sowing purposes unless the person [shall have] has a license to do so from the department [of agriculture]. Application for [such] the license shall be made to the department [and shall conform to such rules and regulations with respect thereto as may be made by the department.] in accordance with rules adopted by the department. All licenses shall expire on [July 1] June 30 of each year.”

SECTION 12. Section 150-30, Hawaii Revised Statutes, is amended to read as follows:

**“§150-30 Disposition of fees and charges.** All fees and charges received [under sections 150-21 to 150-31] pursuant to this chapter shall be deposited with the state director of finance to the credit of the general fund.”

SECTION 13. Section 150-31, Hawaii Revised Statutes, is amended to read as follows:

**“§150-31 Violations; penalties.** Every person who violates [sections 150-23 to 150-26 and any provision of section 150-29] this chapter or any rule [or regulation made] adopted by the department [of agriculture] pursuant to section 150-22, shall be fined not less than [\$10] \$100 nor more than [\$100] \$1000 for the first offense, and not less than [\$100] \$1000 nor more than [\$500] \$5000 for each offense thereafter.”

SECTION 14. Section 150-41, Hawaii Revised Statutes, is amended to read as follows:

**“§150-41 Seed distribution program; revolving fund.** There is established a revolving fund, the purpose of which shall be to enable the seed distribution program to operate at a level which will adequately meet the demand for seed. The fund shall be used for the cultivation and production of seeds and for research and developmental purposes directly related to [such] cultivation and production. The fund shall be administered by the college of tropical agriculture and human resources[,] of the University of Hawaii. All sums withdrawn from the fund shall be reimbursed or restored [thereto] from the proceeds realized through the sale of seeds. The college of tropical agriculture and human resources shall submit an annual report summarizing [receipt] receipts and expenditures and the fund balance of the revolving fund to the department of budget and finance. The first annual report shall be due within six months following the initial twelve-month period that the revolving fund is in operation [and]. Reports shall be due annually thereafter [not later than September 30] before October 1 following the end of the immediately preceding fiscal year.

The seed distribution revolving fund shall remit any moneys in excess of \$35,000 to the state general fund at the end of each fiscal year.”

SECTION 15. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 16. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

**Note**

1. Should be underscored.

**ACT 165**

H.B. NO. 1486

A Bill for an Act Relating to Safe Drinking Water.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 340E, Hawaii Revised Statutes, is amended to read as follows:

## ACT 165

1. By adding three new sections to be appropriately designated and to read:

**“§340E- Tampering with public water systems, penalties.** (a) Any person who tampers with a public water system, attempts to tamper with a public water system, or threatens to tamper with a public water system shall be imprisoned for not more than five years and fined an amount not exceeding \$500,000. If the person is an individual, the fine shall not exceed \$250,000.

(b) Any person who tampers, attempts to tamper, or threatens to tamper with a public water system shall be civilly penalized not more than \$50,000.

(c) For the purposes of this section, the term “tamper” shall mean:

- (1) To introduce a contaminant into a public water system with the intention of harming persons; or
- (2) To otherwise interfere with the operation of a public water system with the intention of harming persons.

**§340E- Inspection of premises.** The director, in accordance with rules adopted pursuant to chapter 91, may enter and inspect any facility of a supplier of water to determine whether such supplier is acting in compliance with this chapter.

**§340E- Notification to users of potential lead contamination.** Before June 19, 1988, every public water system shall identify and provide notice to persons that may be affected by lead contamination of their drinking water where such contamination results from either the lead content in the construction materials of the public water distribution system or corrosivity of the water supply sufficient to cause leaching of lead, or both. The notice shall provide a clear and readily understandable explanation of the following:

- (1) The potential sources of lead in the drinking water;
- (2) The potential adverse health effects;
- (3) The reasonably available methods of mitigating known or potential lead content in drinking water;
- (4) Any steps the system is taking to mitigate lead content in drinking water; and
- (5) The necessity for seeking alternative water supplies, if any.

The failure to comply with the notification required in this section shall subject the supplier of water to the same penalties under section 340E-6.”

2. By amending the definition of “federal act” in section 340E-1 to read:

“(9) “Federal Act” means the Safe Drinking Water Act, P.L. 93-523[.], as amended by the Safe Drinking Water Act Amendments of 1986, P.L. 99-339.”

3. By amending section 340E-4 to read:

**“§340E-4 Imminent hazards.** The director [shall], upon learning that a contaminant is present in or is likely to enter a public water system or an underground source of drinking water and may present an imminent and substantial danger to the public, may take such actions necessary to protect the health of the public. The actions which the director may take include but are not limited to:

- (1) Issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers)[:], including requiring the provision of alternative



water supplies by persons who caused or contributed to the endangerment; and

- (2) Commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.”
4. By amending section 340E-6 to read:

“§340E-6 Notification of users and department. (a) Whenever a public water system:

- (1) Fails to comply with an applicable maximum contaminant level, treatment technique, or testing procedure requirement of a State Primary Drinking Water Regulation;
- (2) Fails to perform monitoring required by regulations adopted by the director;
- (3) Is subject to a variance granted for an inability to meet a maximum contaminant level requirement;
- (4) Is subject to an exemption; or
- (5) Fails to comply with the requirements of any schedule prescribed by such a variance or exemption; the public water system shall promptly notify the department and local communications media of the conditions and the extent to which they may impose adverse effects on public health and the corrective action being taken when appropriate. [At least once every three months so long as the failure, variance, or exemption continues, the public water system shall also publish notice in a newspaper of general circulation within the areas served by the public water system. The notice shall also accompany the water bills of the public water system so long as the failure, variance, or exemption continues. The director shall prescribe by rules the form and manner for giving such notice. The rules may contain such additional public notification requirements as the director determines are necessary to best effectuate the purpose of this section and may also contain alternative notice requirements for systems principally serving nonresident users.]

(b) Notification shall be provided as follows:

- (1) Notice of any violation of a maximum contaminant level or any other violation determined by the director as posing a serious potential adverse health effect shall be given as soon as possible, but in no case later than fourteen days after the violation;
- (2) Notice of a continuous violation of subsection (a) other than a violation of a maximum contaminant level shall be given not less frequently than every three months;
- (3) Notice of a variance or exemption shall be given not less frequently than every three months;
- (4) The public water system shall also publish notice in a newspaper of general circulation within the areas served by the public water system. The notice shall also accompany the water bills of the public water system so long as the violation, variance, or exemption continues; and
- (5) The director shall prescribe by rules the form and manner for giving such notice. The rules may contain such additional public notification requirements as the director determines are necessary to best effectuate the purpose of this section and may also contain alternative notice requirements for systems principally serving nonresident users.”

5. By amending section 340E-7 to read:

ACT 165

**“§340E-7 Prohibited acts.** (a) No supplier of water shall violate any rule [or regulation promulgated] adopted pursuant to section 340E-2.

(b) No supplier of water shall violate any condition or provision of a variance, exemption, permit, or other written authorization issued under this chapter.

(c) No supplier of water shall violate any requirement of an emergency plan promulgated pursuant to section 340E-5.

(d) No supplier of water shall disseminate any false or misleading information with respect to notices required pursuant to section 340E-6 or with respect to remedial actions undertaken to achieve compliance with State Primary Drinking Water Regulations.

(e) No person shall violate any order issued by the director pursuant to this chapter.

(f) No person shall cause a public water system to violate the State Primary Drinking Water Regulations.

(g) No person shall violate underground injection control [regulations promulgated] rules adopted pursuant to this chapter.

(h) No person shall fail or refuse to comply with the director’s authority to inspect the premises of a supplier of water pursuant to section 340E-

(i) No person shall install or repair any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption which is connected to a public water system with any pipe, solder, or flux that is not lead free. “Lead free” with respect to solders and flux means containing not more than 0.2 per cent lead and with respect to pipes and pipe fittings means containing not more than 8.0 per cent lead. This subsection shall not apply to leaded joints necessary for the repair of cast iron pipes.”

6. By amending section 340E-8 to read:

**“§340E-8 Penalties and remedies.** (a) Any person who violates section 340E-7[, except section 340E-7(g),] shall be civilly penalized not more than [\$5,000] \$25,000 per day of violation.

[(b) Any person who violates section 340E-7(g) shall be civilly penalized not more than \$7,500 per day of violation.]

(c) (b) Any person who wilfully violates section 340E-7(g) shall be criminally fined not more than [\$7,500] \$25,000 per day of violation[.] and may be imprisoned for not more than three years.

[(d)] (c) Any person may be enjoined from any violation of section 340E-7.

[(e)] (d) The director may enforce this chapter in either administrative or judicial proceedings:

(1) Administrative. If the director determines that any person is violating any provision of this chapter, any rule [or regulation promulgated] adopted thereunder, or any variance, exemption, permit, or other written authorization issued pursuant thereto, the director may have that person served with a notice of violation and an order. The notice shall specify the alleged violation. The order may require that the alleged violator do any or all of the following: cease and desist from the violation, pay a civil penalty as specified in this section, or appear before the director at a time and place specified in the order and answer the charges complained of. The order shall become final twenty days after service unless within those twenty days the alleged violator requests in writing a hearing before the director. Upon such

request the director shall specify a time and place for the alleged violator to appear. When the director issues an order for immediate action to protect the public health from an imminent and substantial danger, the department shall provide an opportunity for a hearing within twenty-four hours after service of the order. After a hearing pursuant to this subsection, the director may affirm, modify, or rescind the director's order as the director deems appropriate. The director may institute a civil action in any court of appropriate jurisdiction for the enforcement of any order issued pursuant to this subsection.

- (2) Judicial. The director may institute a civil action in any court of appropriate jurisdiction for injunctive relief to prevent violation of this chapter or any order or regulation issued pursuant to this chapter, in addition to any other remedy provided for under this section.

(e) Any person who violates section 340E-6 shall be civilly penalized not more than \$25,000 for each violation.

(f) Any person who fails to comply with any action taken by the director pursuant to section 340E-4 shall be civilly penalized not more than \$25,000 for each day of failure to comply."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 166**

H.B. NO. 1529

A Bill for an Act Relating to Industrial Loan Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 408-15, Hawaii Revised Statutes, is amended by amending subsection (j) as follows:

"(j) Other charges. In addition to the interest and any other charges permitted by this section, a licensee shall also have the right to charge, contract for, and receive in advance or otherwise from the borrower any of the following charges for any loan made under subsection (b) or (c):

- (1) The actual taxes and fees charged by a governmental agency for recording, filing, or entering of record, any bill of sale, assignment, deed, or other conveyance, any mortgage or other security agreement or instrument, any financing statement or other notice, and any partial or complete release, discharge, or satisfaction of any judgment, mortgage, lien, or other encumbrance, or of any of [such] the conveyances, security agreements, or instruments or financing statements or other notices.
- (2) Abstractors' fees, appraisal fees, survey fees, notary fees, and title report or title insurance fees, where actually paid to third parties, no portion of which fees inures to the benefit of the company.

- (3) Licensee appraisal fees; provided that the appraisals shall be made by a competent, qualified person connected with the licensee, designated and approved by the board of directors or by a competent, qualified, independent appraiser. The commissioner may require that an appraisal by an independent appraiser be obtained at the expense of the licensee whenever the commissioner deems it necessary.
- (4) Mortgage reserve funds to be held by the licensee for payment of taxes, insurance, lease rent, condominium assessments, and similar expenses.
- (5) Premiums actually paid for insuring real and personal property used as security on a contract[,] and other personal property owned by the borrower, premiums for insurance on the life or disability or both of the borrower, [and] premiums for private mortgage insurance[;], and premiums for involuntary unemployment insurance; provided the insurance is obtained from insurance companies authorized to do and doing business in the State under the laws thereof; and provided the borrower, if the property is adequately insured for the amount of the loan, shall not be required to substitute other insurance therefor upon the property or to take out additional insurance thereon.
- (6) Attorney's fees and expenses, including costs and expenses of repossession, foreclosure, or other legal remedies, if provided for in the contract, and costs of court, incurred in the collection of any contract in default.
- (7) A reasonable charge upon the transfer of any equity under a chattel mortgage or a conditional sale contract, or upon any partial or complete release, discharge, or satisfaction of any judgment, mortgage, lien, security interest, or other encumbrance, or upon any of [such] the conveyances of any real or personal property which constitutes all or a portion of the security on a contract; provided that [such] the charge shall not exceed \$25 for any consumer loan.
- (8) Any reasonable attorneys' fees incurred for the preparation of any contract, including any promissory note or any other obligation evidencing an indebtedness, any bill of sale, assignment, deed, or other conveyance, any mortgage or other security agreement or instrument, any financing statement or other notice, and any partial or complete release, discharge, or satisfaction of any [such] conveyances, security agreements or instruments, financing statements, or other notices, or of any judgment, mortgage, lien, or other encumbrance on any real or personal property which constitutes all or a portion of security on a contract, or any other documents relating to a contract.
- (9) Actual charges for credit reports and other credit screening expenses incurred for loans of \$5,000 or more; provided that [such] the charges are paid to third parties and no portion of [such] the charges inures to the benefit of the licensee.
- (10) A prepayment charge as provided in the contract, on any amount voluntarily, and not pursuant to any acceleration provision, prepaid; provided that on any consumer loan, [such] the prepayment charge shall be computed on the amount prepaid in any twelve-month period measured from the date of the contract or from any anniversary thereof in excess of twenty per cent of the original principal amount of any loan contracted for five

years or more, and may be charged only on amounts prepaid within five years of the date of the contract and may be charged only on loans primarily secured by an interest in real property where the interest rate is computed in accordance with subsection (c) or (d); and provided further that on a consumer loan the prepayment charge on any [such] amount shall not exceed a sum equal to six months of interest at the loan rate on the amount prepaid. The prepayment charge shall not apply to adjustable or variable rate loans or open-end loans.

- (11) Commitment fees as provided in the contract for the licensee's written commitment to a borrower to make, extend, or assume a loan or loans. The written commitment may make [such] the fees nonrefundable.
- (12) Application fees charged to all applicants for a loan, whether or not the loan is approved.
- (13) Charges imposed by a licensee for payment of items that overdraw an open-end loan account.
- (14) Charges for participation in an open-end credit plan, whether assessed on an annual, periodic, or other basis.

This subsection shall not limit the authority that is available under subsection (d) to charge, contract for, and receive charges other than interest whether or not such other charges are finance charges."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

## ACT 167

H.B. NO. 1849

A Bill for an Act Relating to Pesticides.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 149A-31, Hawaii Revised Statutes, is amended to read as follows:

**"§149A-31 Prohibited acts.** No person shall:

- (1) Use any licensed pesticide in a manner inconsistent with its label;
- (2) Use, store, transport, or discard any pesticide or the containers of such pesticide in any manner which would have unreasonable adverse effect on the environment;
- (3) Use or apply restricted pesticides unless the person is a certified pesticide applicator or under the direct supervision of a certified pesticide applicator with a valid certificate issued pursuant to regulations adopted under section 149A-33(1);
- (4) Use or apply pesticides in any manner that has been suspended, canceled, or restricted pursuant to section 149A-32.5; [or]
- (5) Falsify any record or report required to be made or maintained by regulations adopted pursuant to this chapter[.]; or
- (6) Fill with water, through a hose, pipe or other similar transmission system, any tank, implement, apparatus, or equipment used to disperse pesticides, unless the tank, implement, apparatus,

equipment, hose, pipe or other similar transmission system is equipped with an air gap or a reduced-pressure principle back-flow device meeting the requirements under section 340E-2 and the rules adopted thereunder.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

**ACT 168**

S.B. NO. 35

A Bill for an Act Relating to Foreign Banks.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
FOREIGN BANKS**

**PART I. GENERAL PROVISIONS**

§ -1 **Definitions.** As used in this chapter, unless the context otherwise requires:

“Agency” means a depository agency or a nondepository agency.

“Business in this State”, when used with respect to a foreign bank which is licensed to maintain one or more agencies, includes the aggregate business of all the offices.

“Commissioner” means the commissioner of financial institutions.

“Control” means possession, direct or indirect, of the power:

- (1) To vote twenty-five per cent or more of any class of the voting securities issued by a person; or
- (2) To direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or nonmanagement services), or otherwise; provided that no individual shall be deemed to control a person solely on account of being a director, officer, or employee of the person.

For purposes of paragraph (2), a person who, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten per cent or more of the then outstanding voting securities issued by another person is presumed to control the other person.

“Controlling person”, when used with respect to a foreign bank, means any person who, directly or indirectly, controls the bank.

“Depository agency”, when used with respect to a foreign bank, means a place in this State at which the foreign bank transacts commercial banking business but at which it does not receive deposits except as permitted under section -35.

“Executive officer”, when used with respect to a foreign bank or a controlling person of a foreign bank, means the chief executive officer, the chief operating officer, the chief financial officer, and any other person who participates or has authority to participate in major policy-making functions

of such bank or controlling person. "Executive officer", when used with respect to a foreign bank, includes the head of the international division or, if there is no such division, the closest equivalent division or unit of such bank.

"Federal agency" has the meaning set forth in section 1(b) of the International Banking Act of 1978, Public Law 95-369, as amended.

"Foreign bank" means any bank including any commercial bank, merchant bank, or other institution that engages in banking activities which are usual in connection with the business of banking in the nations where the institution is organized or operating other than (1) a bank which is organized under the laws of a state of the United States or (2) a national bank which maintains its head office in a state of the United States.

"Foreign nation" means any nation other than the United States, including any subdivision, territory, trust territory, dependency, or possession of any such nation. "Foreign nation" includes Puerto Rico, Guam, American Samoa, the Virgin Islands, and any territory, trust territory, dependency, or insular possession of the United States.

"Nondepository agency", when used with respect to a foreign bank, means a place in this State at which the bank transacts commercial banking business, except the business of receiving deposits.

"Office", when used with respect to a foreign bank, means any agency or representative office of the bank.

"Primary office", when used with respect to a foreign bank licensed to maintain a single agency, means such agency and, when used with respect to a foreign bank licensed to maintain two or more agencies, means the office the bank has designated as its primary office in accordance with section -12.

"Representative office", when used with respect to a foreign bank, means an office in this State at which the bank engages in representational functions but does not transact commercial banking business.

**§ -2 Classification of offices.** For purposes of this chapter, offices of foreign banks are divided into classes and ranked in ascending order, as follows:

- (1) Representative office.
- (2) Nondepository agency.
- (3) Depository agency.

**§ -3 Fees.** Fees shall be paid to, and collected by, the commissioner, as follows:

- (1) The fee for filing an application by a foreign bank not licensed to transact business in this State for approval to establish an agency shall be \$5,000.
- (2) The fee for filing an application by a foreign bank licensed to transact business in this State for approval to establish an agency shall be \$1,500.
- (3) The fee for filing an application by a foreign bank for approval to establish a representative office shall be \$1,500.
- (4) The fee for filing an application by a foreign bank licensed to maintain an agency for approval to relocate or to close the office shall be \$250.
- (5) The fee for filing an application by a foreign bank licensed to maintain a representative office for approval to relocate or to close such representative office shall be \$250.
- (6) The fee for issuing a license shall be \$100.

## ACT 168

- (7) Each foreign bank which on June 1 of any year is licensed to maintain a representative office but is not licensed to transact business in this State shall pay, on or before the following July 1, a fee of \$1,000 for each representative office.

§ -4 **Applications.** Each application filed with the commissioner under this chapter shall be in such form as prescribed by rules.

§ -5 **Good character of officers and directors.** (a) In this section, "act" includes omission.

(b) For the purpose of making findings on an application by a foreign bank for approval to establish an office the commissioner may:

- (1) In the absence of credible evidence to the contrary, presume that the directors, executive officers, and any controlling person of the bank and the directors and executive officers of any controlling person of the bank are each of good character and sound financial standing.
- (2) Find that the bank, a director, executive officer, or a controlling person of the bank, or a director or executive officer of a controlling person of the bank is not of good character if the person has:
  - (A) Been convicted of, or has pleaded nolo contendere to, any crime involving an act of fraud or dishonesty;
  - (B) Consented to or suffered a judgment in any civil action based upon conduct involving an act of fraud or dishonesty;
  - (C) Consented to or suffered the suspension or revocation of any professional, occupational, or vocational license based upon conduct involving an act of fraud or dishonesty;
  - (D) Wilfully made or caused to be made in any application or report filed with the commissioner, or in any proceeding before the commissioner, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has wilfully omitted to state in any application or report any material fact which was required to be stated therein; or
  - (E) Wilfully committed any violation of, or has wilfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of, any provision of this chapter or of any rule or order issued under this chapter.

(c) Subsection (b)(2) shall not be deemed an exclusive list of the grounds upon which the commissioner may find that a bank, a director, executive officer, or controlling person of the bank, or a director or executive officer of a controlling person of the bank is not of good character.

§ -6 **Reports; records.** (a) Every foreign bank doing business in this State shall submit written reports in the English language to the commissioner at the times and in the form as the commissioner prescribes, under the oath of one of its officers, managers, or agents transacting business in this State, showing the amount of its assets and liabilities, and containing such other matters as the commissioner prescribes. If any foreign bank fails to submit a report, or if any report contains any false statement knowingly made, the failure or false statement, as the case may be, shall be grounds for revocation of the license of the foreign bank.

(b) Each foreign bank licensed under this chapter shall keep, at its place of business in this State, correct and complete books and records of



account of its business operations transacted by the foreign bank. The foreign bank shall also keep current copies of the charter and bylaws of the foreign bank, relative to the operations of the foreign bank, and minutes of the proceedings of its directors or committees relative to the bank business. The records shall be subject to examination by the commissioner as provided under section 403-8 and shall be made available to the commissioner, upon request, at any time during regular business hours of the foreign bank. Any failure to keep the records or any refusal to produce the records upon request by the commissioner shall be grounds for suspension or revocation of any license issued under this chapter.

**§ -7 Concurrent federal and state agencies.** (a) No foreign bank licensed to maintain an agency shall concurrently maintain a federal agency in this State.

(b) No foreign bank which maintains a federal agency in this State shall concurrently be licensed to maintain an agency in this State.

**§ -8 Concurrent offices of different classes.** No foreign bank shall concurrently be licensed to maintain offices of different classes; provided that a foreign bank licensed to maintain a representative office is not prohibited from being concurrently licensed to maintain an office of a different class, or a foreign bank licensed to maintain an office other than a representative office is not prohibited from being concurrently licensed to maintain a representative office.

**§ -9 Agent for service of process; manner of service.** (a) No foreign bank shall be issued a license under this chapter unless it has first filed with the commissioner an irrevocable affidavit appointing the commissioner to be the bank's attorney to receive service of process in any noncriminal judicial or administrative proceeding against the bank or any of its successors which arises out of the activities in this State of the bank after the affidavit has been filed.

(b) Service may be made on a foreign bank which has appointed the commissioner as its attorney for service of process by leaving a copy of the process at any office of the commissioner; provided that the service is not effective unless: (1) the party making the service, who may be the commissioner, forthwith sends notice of the service and a copy of the process by registered or certified mail to the bank served at its last address on file with the commissioner at any of its offices in this State or at its head office; and (2) an affidavit of compliance with this section by the party making service is filed in the case on or before the return date, if any, or within such further time as the court, in the case of a judicial proceeding, or the administrative agency, in the case of an administrative proceeding, allows.

**§ -10 Display, transferability, and assignability of license.** A foreign bank licensed to maintain an office shall post its license in a conspicuous place at the office. No license shall be transferable or assignable.

**§ -11 Names.** A foreign bank licensed to maintain an office shall assign to the office a popular name consisting of a specific designation by name or number and shall post the popular name and the name of the bank in a conspicuous place at the office.

The popular name that a foreign bank assigns to its licensed representative office shall include the term "representative office".

The popular name that a foreign bank assigns to its licensed agency shall not include the term "branch" unless the term is modified by the word "foreign" or "overseas" or by a similar word.

§ -12 **Designation of primary office; location of business.** When a foreign bank is licensed to maintain two or more agencies, it shall designate one of such agencies as its primary office. A foreign bank licensed to maintain an office shall conduct all of the office's business in a single building or in adjoining buildings; provided that, for good cause and with the approval of the commissioner, the bank may conduct part of the business of the office elsewhere in the same vicinity.

§ -13 **Interest rate restrictions.** Chapter 478 shall apply to foreign banks licensed under this chapter.

§ -14 **Applicability of state laws.** (a) Foreign banks shall be subject to chapter 403 as though such foreign banks were state banks, except where it may appear, from the context or otherwise, that the provisions are clearly applicable only to banks organized under the laws of this State or the United States. Foreign banks shall be subject to the general corporation laws relating to foreign corporations which are not in conflict with this chapter or chapter 403.

(b) Foreign banks, with regard to assets located within this State, shall be subject specifically to the liquidation and receivership provisions of chapter 403.

(c) A foreign bank shall have no greater right under, or by virtue of, this section than is granted to banks organized under the laws of this State. Legal and financial terms used in this chapter shall be deemed to refer to equivalent terms used by the country in which the foreign bank is organized; provided that all contracts or agreements which are negotiated in this State with Hawaii residents shall be construed under Hawaii law.

(d) When any provision of this chapter which is applicable to or with respect to a foreign bank licensed to transact business in this State limits the amount of any assets or liabilities of the bank, including the amount of borrowings of, obligations to, or investments of the bank, for purposes of calculating the amount of such assets or liabilities, only the assets or liabilities of the agencies of the bank shall be included, and the assets and liabilities of offices of the bank outside this State shall be excluded.

§ -15 **Rules.** The commissioner shall adopt rules under chapter 91 necessary for the administration of foreign banks under this chapter in the interest of protecting depositors, creditors, borrowers, or the public interest and in the interest of maintaining a sound banking system in this State.

## PART II. REPRESENTATIVE OFFICES

§ -21 **License.** (a) No foreign bank shall establish or maintain an office in this State to engage in representational functions unless it is licensed to maintain a representative office or an agency at the place.

(b) No person shall establish or maintain an office in this State as representative of a foreign bank unless the bank is licensed under this part to maintain such office as a representative office. For purposes of this chapter, if any person establishes or maintains an office in this State as representative of a foreign bank, the foreign bank shall be deemed to establish and maintain such office as a representative office.

§ -22 **Establishment of office.** (a) No foreign bank shall establish or maintain a representative office without prior approval of the commissioner and a license authorizing the bank to maintain the office; provided that a foreign bank which maintains a federal agency in this State is not prohibited from establishing or maintaining one or more representative offices in this State.

(b) An application for a license under this part shall be approved if the commissioner finds that:

- (1) The bank, any controlling person of the bank, the directors and executive officers of the bank or of any controlling person of the bank, and the proposed management of the office are of good character and sound financial standing;
- (2) The financial history and condition of the bank are satisfactory;
- (3) The management of the bank and the proposed management of the office are adequate;
- (4) It is reasonable to believe that, if licensed to maintain the office, the bank will operate the office in compliance with all applicable laws and rules; and
- (5) The bank's establishment and maintenance of the office will promote the public convenience and advantage.

(c) When an application to establish a representative office has been approved and all conditions precedent to the issuance of a license authorizing the bank to maintain the office have been fulfilled, the commissioner shall issue the license.

**§ -23 Relocation of office.** (a) No foreign bank licensed to maintain a representative office shall relocate the office without the prior approval of the commissioner and a new license authorizing the bank to maintain the office at the new site.

(b) An application for approval to relocate shall be approved if the commissioner finds:

- (1) The new site of the office is in the same vicinity as the old site, and the relocation of the office will not be substantially detrimental to the public convenience and advantage; or
- (2) The new site of the office is not in the same vicinity as the old site; but:
  - (A) The relocation of the office from the old site will not be substantially detrimental to the public convenience and advantage in the area which is primarily served by the office at the old site; and
  - (B) The relocation of the office to the new site will promote the public convenience and advantage.

(c) When an application to relocate a representative office has been approved and all conditions precedent to the issuance of a license authorizing such bank to maintain the office at the new site have been fulfilled, the commissioner shall issue the license.

(d) Promptly after an approved relocation, the bank shall surrender to the commissioner the license which authorized it to maintain the office at the old site.

**§ -24 Permissible activities.** A foreign bank licensed to maintain a representative office, subject to the rules as the commissioner may prescribe, may engage in representational functions at the office but shall not solicit or accept deposits or otherwise transact business at the office.

**§ -25 Closure of office.** (a) No foreign bank licensed to maintain a representative office shall close the office unless the commissioner first approves such closing; provided that a foreign bank licensed to maintain a representative office is not prohibited from closing the office in accordance with part IV.

(b) If the commissioner finds that the closing of the office will not be substantially detrimental to the public convenience and advantage, the application shall be approved.

(c) When an application to close a representative office has been approved and all conditions precedent to the closing have been fulfilled, the bank may close the office and shall promptly thereafter surrender to the commissioner the license which authorized it to maintain the office.

### PART III. AGENCIES

§ -31 **Limitations on transacting business.** (a) No foreign bank shall transact business in this State except at an agency licensed to transact business in this State.

(b) Subsection (a) does not prohibit:

- (1) Any foreign bank which maintains a federal agency in this State from transacting the business at the federal agency as it may be authorized to transact under applicable federal laws and regulations; or
- (2) Any foreign bank which does not maintain an agency from making in this State loans secured by liens on real property located in this State.

§ -32 **License; deposit insurance.** (a) No foreign bank shall be licensed to maintain any agency unless it is qualified to transact intrastate business in this State under the corporation laws dealing with foreign corporations.

(b) A foreign bank licensed to maintain a depository agency shall give notice that deposits in the agency are not insured by the Federal Deposit Insurance Corporation.

§ -33 **Establishment of office.** (a) No foreign bank shall establish or maintain in this State an agency, except a federal agency, without a license under this chapter.

(b) An application for a license under this part shall be approved if the commissioner finds that:

- (1) The bank, any controlling person of the bank, the directors and executive officers of the bank or of any controlling person of the bank, and the proposed management of the agency are each of good character and sound financial standing;
- (2) The financial history and condition of the bank are satisfactory;
- (3) The management of the bank and the proposed management of the agency are adequate;
- (4) It is reasonable to believe that, if licensed to maintain the agency, the bank will operate the agency in a safe and sound manner and in compliance with all applicable laws, rules, and orders;
- (5) The bank's plan to establish and to maintain the agency affords reasonable promise of successful operation;
- (6) The bank's establishment and maintenance of the agency will promote the public convenience and advantage; and
- (7) The foreign nation where the bank is domiciled permits banks organized under the laws of this State and national banks headquartered in this State to establish and maintain in the foreign nation offices substantially equivalent to agencies or, except for directors' qualifying shares, wholly owned banks organized under the laws of the foreign nation.

(c) When an application to establish an agency has been approved and all conditions precedent to the issuance of a license authorizing the bank to maintain the agency have been fulfilled, the commissioner shall issue the license.

**§ -34 Relocation of agency.** (a) No foreign bank licensed to maintain an agency shall relocate the agency without the prior approval of the commissioner and a new license authorizing the bank to maintain the agency at the new site.

(b) An application shall be approved if the commissioner finds that:

- (1) The new site of the agency is in the same vicinity as the old site, and:
  - (A) It will not be unsafe or unsound for the bank to relocate the agency; and
  - (B) The relocation will not be substantially detrimental to the public convenience and advantage, or the relocation is necessary in the interests of the safety and soundness of the bank; or
- (2) The new site of the agency is not in the same vicinity as the old site, but:
  - (A) The bank's plan to relocate and to maintain the agency at the new site affords reasonable promise of successful operation;
  - (B) The relocation will not be substantially detrimental to the public convenience and advantage in the area which is primarily served by the agency at the old site, or the relocation is necessary in the interests of the safety and soundness of the bank; and
  - (C) The relocation will promote the public convenience and advantage.

(c) When an application to relocate has been approved and all conditions precedent to the issuance of a license authorizing the bank to maintain the agency at the new site have been fulfilled, the commissioner shall issue the license.

(d) Promptly after an approved relocation, the bank shall surrender to the commissioner the license which authorized it to maintain such agency at the old site.

**§ -35 Permissible activities.** A foreign bank licensed to maintain an agency may transact commercial banking business at such office, subject to the following:

- (1) If the agency is a nondepository agency, the bank shall not transact the business of accepting deposits.
- (2) If the agency is a depository agency, the bank shall not transact the business of accepting any deposits other than deposits of:
  - (A) A foreign nation;
  - (B) An agency or instrumentality of a foreign nation; or
  - (C) A person which resides, is domiciled, and maintains its principal place of business in a foreign nation.

For purposes of this paragraph "person" means any individual, proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, corporation, or any other organization or any branch or division thereof.

- (3) The bank, subject to rules adopted by the commissioner, may maintain credit balances.

- (4) In any case, the bank shall not transact any business which it is not authorized to transact or is prohibited from transacting under the laws of its domicile or which commercial banks organized under the laws of this State are not authorized to transact or are prohibited from transacting.

§ -36 **Restricted activities.** No foreign bank licensed to maintain an agency shall transact any trust business. Foreign banks shall not establish branch banks as permitted under sections 403-53 and 403-55. Foreign banks shall not be eligible for the deposit of public funds as provided under section 38-2.

§ -37 **Deposit regulations.** If a foreign bank is licensed to maintain a depository agency, the agency shall be subject to applicable federal deposit regulations.

§ -38 **Segregation of assets; priority among creditors.** A foreign bank licensed to transact business in this State shall keep the assets of the business separate and apart from the assets of its business outside this State. The creditors of the business in this State of a licensed foreign bank shall be entitled to priority over other creditors with respect to the assets of such bank's business in this State.

§ -39 **Deposit, withdrawal, and release of assets; claims.** (a) As used in this section:

"Adjusted liabilities" means the liabilities of the bank's business in this State, excluding:

- (1) Accrued expenses;
- (2) Any liability to an office, whether in or outside of this State, or majority-owned subsidiary of the bank; and
- (3) Such other liabilities as the commissioner may exclude.

"Applicable minimum", when used with respect to eligible assets deposited or to be deposited with an approved depository by a foreign bank, means the amount as the commissioner by rule may determine as necessary for the maintenance of sound financial condition, for the protection of the interests of creditors of the bank's business in this State, or for the protection of the public interest.

"Approved depository" means a bank organized under the laws of this State or a national bank headquartered in this State which has been selected by the foreign bank and approved by the commissioner to act as the approved depository of the foreign bank and which has filed with the commissioner an agreement to comply with all applicable provisions of this section and of any rule or order issued under this section.

"Eligible assets" means any of the following:

- (1) Cash;
- (2) Any security of the type described in section 403-128;
- (3) Any negotiable certificate of deposit which:
  - (A) Has a maturity of not more than one year;
  - (B) Is payable in the United States; and
  - (C) Is issued by a bank organized under the laws of a state of the United States, by a national bank, or by a branch office of a foreign bank which is located in the United States;
- (4) Any commercial paper which is payable in the United States and which is rated P-1 or its equivalent by a nationally recognized rating service; provided that any conflict in rating shall be resolved in favor of the lower rating;

- (5) Any banker's acceptance which is payable in the United States and which is eligible for discount with a Federal Reserve Bank;
- (6) Any other asset which the commissioner determines is eligible.

Notwithstanding the foregoing provisions of this paragraph, "eligible asset" does not include any instrument the issuer of which is, or is affiliated with, the foreign bank, is domiciled in, or controlled by a bank or other person domiciled in, the same foreign nation as the foreign bank, or is controlled by the foreign nation. For purposes of this paragraph, to be "affiliated" means to control, to be controlled by, or to be under common control with.

(b) For purposes of this section:

- (1) The amount of adjusted liabilities of a foreign bank's business in this State shall be computed for such period, in the manner, and on the basis as the commissioner may prescribe by rule;
- (2) Any eligible asset shall be valued at the lesser of market or par.

(c) Before any foreign bank is licensed to transact business in this State, the bank shall deposit, and each foreign bank licensed to transact business in this State shall maintain on deposit, with an approved depository eligible assets having a value in an amount not less than the applicable minimum.

When a foreign bank licensed to transact business in this State ceases to be so licensed, the bank shall thereafter maintain on deposit with an approved depository eligible assets having a value in an amount not less than the applicable minimum for the period of time as the commissioner may determine necessary to protect the creditors of the bank's business in this State or for the protection of the public interest.

(d) No foreign bank which maintains eligible assets on deposit with an approved depository pursuant to this section shall withdraw any eligible assets except with the prior approval of the commissioner.

No approved depository which holds eligible assets on deposit from a foreign bank pursuant to this section shall release any eligible assets except with the prior approval of the commissioner or as otherwise provided in subsection (h).

(e) Any foreign bank which maintains eligible assets on deposit with an approved depository pursuant to this section, unless the commissioner suspends or revokes its license or takes possession of its property and business in this State, shall be entitled to receive any income paid on such eligible assets.

(f) When a foreign bank deposits eligible assets with, or withdraws eligible assets from, an approved depository pursuant to this section, the bank shall do so in accordance with procedures and requirements prescribed by the commissioner.

When an approved depository receives, holds, or releases eligible assets pursuant to this section, the approved depository shall do so in accordance with such procedures and requirements, and shall file such reports, as the commissioner may require.

(g) When a foreign bank maintains eligible assets on deposit with an approved depository pursuant to this section:

- (1) The eligible assets shall be deemed pledged to the commissioner for the benefit of the creditors of the bank's business in this State; and, notwithstanding any provision of the Uniform Commercial Code, chapter 490, to the contrary, the commissioner, for the benefit of the creditors, shall have a security interest in the eligible assets;

- (2) The eligible assets shall be free from any lien, charge, right of setoff, credit, or preference in connection with any claim of the approved depository against the bank.

(h) If the commissioner takes possession of the property and business of a foreign bank which maintains eligible assets on deposit with an approved depository pursuant to this section, the approved depository, upon order of the commissioner, shall release the eligible assets to the commissioner as liquidator of the property and business of the bank.

If a foreign bank which maintains eligible assets on deposit with an approved depository pursuant to this section fails to pay any judgment creditor of its business in this State and the commissioner has not taken possession of the property and business of the bank, the approved depository shall release such eligible assets to the commissioner, and the commissioner shall make the disposition of the eligible assets as a court of competent jurisdiction of this State or of the United States may order for the benefit of the judgment creditor. For purposes of this paragraph, "judgment creditor of its business in this State" means a person to whom the bank is required to pay money under a judgment which:

- (1) Arose out of the bank's business in this State;
- (2) Has been entered by a court of this State or of the United States;
- (3) Has become final, in that all possibility of direct attack on the judgment by way of appeal, motion for new trial, motion to vacate, or petition for extraordinary writ has been exhausted; and
- (4) Has remained unpaid for a period of not less than sixty days after becoming final.

**§ -40 Closure of agency.** (a) No foreign bank licensed to maintain an agency shall close such agency without prior approval of the commissioner.

This subsection shall not prohibit a foreign bank which is licensed to maintain an agency from closing the agency in accordance with part IV.

(b) The commissioner shall approve an application for closure if the commissioner finds that:

- (1) It will not be unsafe or unsound for the bank to close the agency; and
- (2) The closing will not be substantially detrimental to the public convenience and advantage or that the closing is necessary in the interests of the safety and soundness of the bank.

(c) When an application for closure has been approved and all conditions precedent to the closing have been fulfilled, the bank may close the agency and shall promptly thereafter surrender to the commissioner the license which authorized it to maintain the agency.

#### **PART IV. VOLUNTARY SURRENDER OF LICENSE**

**§ -51 Report and filing; effective date of surrender.** Any foreign bank licensed to maintain an office may voluntarily surrender its license by filing the license and a report with the commissioner; provided that any foreign bank which holds licenses to maintain two or more offices may not voluntarily surrender less than all of the licenses.

A voluntary surrender of a license shall be effective on the thirtieth day after the license and the report are filed or on such earlier date as specified by the commissioner; provided that if a proceeding to revoke or suspend a license is pending at the time of the filing or if a proceeding to revoke or suspend a license or to impose conditions upon the surrender of a



license is instituted before the thirtieth day after the filing, the voluntary surrender of the license shall become effective at the time and upon the conditions as specified by the commissioner.

### PART V. ENFORCEMENT

§ -61 **Civil penalties.** If, after a notice and a hearing, the commissioner finds that a person has violated any provision of this chapter or any rule or order issued under this chapter, the commissioner may order the person to pay a civil penalty determined by the commissioner; provided that the amount shall not exceed \$100 for each violation or, in the case of a continuing violation, \$100 for each day the violation continues.

§ -62 **Suspension or revocation of license.** (a) The commissioner may suspend or revoke the license of a foreign bank to maintain an office if the commissioner finds that:

- (1) The bank has violated any provision of this chapter or any rule or order under this chapter or any provision of any other applicable law, rule, or order;
- (2) The bank, if licensed to transact business in this State, is transacting business in an unsafe or unsound manner or, in any case, is transacting business elsewhere in an unsafe or unsound manner;
- (3) The bank is in unsafe or unsound condition;
- (4) The bank has ceased to operate its office;
- (5) The bank is insolvent in that it has ceased to pay its debts in the ordinary course of business, it cannot pay its debts as they become due, or its liabilities exceed its assets;
- (6) The bank has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due;
- (7) The bank has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any bankruptcy, reorganization, insolvency, or moratorium law, or that any person has applied for any relief under any law against the bank and the bank has by any affirmative act approved of or consented to such action or such relief has been granted;
- (8) A receiver, liquidator, or conservator has been appointed for the bank, or that any proceeding for such an appointment or any similar proceeding has been initiated in the place where the bank is domiciled;
- (9) The existence of the bank or the authority of the bank to transact banking business under the laws of the place where the bank is domiciled has been suspended or terminated; or
- (10) Any fact or condition exists which, if it had existed at the time the bank applied for its license to transact business in this State, would have been grounds for denying the application.

(b) If the commissioner finds it necessary, in case the bank is licensed to transact business in this State, for the protection of the interests of creditors of the bank's business in this State or, in any case, for the protection of the public interest, the commissioner may issue an order immediately suspending or revoking the license of the bank.

Within thirty days after such an order is issued, the foreign bank may file an application for a hearing on the order. If the commissioner fails to commence the hearing within fifteen business days after the application is filed or within a longer period to which the bank consents, the order shall be

deemed rescinded. Within thirty days after the hearing, the commissioner shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded.

The right of any foreign bank to which an order is issued to petition for judicial review of the order shall not be affected by the failure of the bank to apply for a hearing on the order.

(c) A foreign bank whose license to maintain an office is suspended or revoked shall immediately surrender the license to the commissioner.

**§ -63 Modification or rescission of order; review.** (a) Any foreign bank to which an order is issued under section -62 may apply to the commissioner to modify or rescind the order. The commissioner shall grant the application if it is in the public interest to do so and if it is reasonable to believe that the bank, if and when it is again licensed to maintain an office, will comply with all applicable provisions of this chapter and of any rule or order issued under this chapter.

(b) The right of any foreign bank to which an order is issued under section -62 to petition for judicial review of the order shall not be affected by the failure of the bank to apply to the commissioner to modify or rescind the order.

**§ -64 Possession and liquidation of business by commissioner; injunction.** (a) The commissioner may take immediate possession of the property and business of a foreign bank licensed to transact business in this State and retain possession until the bank resumes business in this State or is finally liquidated if the commissioner finds it necessary for the protection of the bank's creditors in this State or of the public interest. The bank, with the consent of the commissioner, may resume business in this State upon conditions prescribed by the commissioner.

(b) When the commissioner takes possession of the property and business of a foreign bank, the bank, within ten days, may apply to the circuit court in the county in which the primary office of the bank is located to enjoin further proceedings. The court, after citing the commissioner to show cause why further proceedings should not be enjoined and after a hearing, may dismiss the application or enjoin the commissioner from further proceedings and order the commissioner to surrender the property and business of the bank to the bank or make such further order as may be just.

The judgment of the court may be appealed by the commissioner or the bank. An appeal by the commissioner shall operate as a stay of the judgment, and the commissioner shall not be required to post any bond.

(c) When the commissioner takes possession of the property and business of a foreign bank, the commissioner shall conserve or liquidate the property and business of the bank pursuant to the liquidation procedures under chapter 403.

(d) Upon completion of the liquidation of the property and business of a foreign bank, the commissioner shall transfer any remaining assets to the bank in accordance with the orders as the court may issue; provided that, if the bank has an office in another state of the United States which is in liquidation and the assets of the office appear to be insufficient to pay in full the creditors of the office, the court shall order the commissioner to transfer to the liquidator of the office the amount of any remaining assets as appears to be necessary to cover the insufficiency; provided further that, if there are two or more offices and the amount of remaining assets is less than the aggregate amount of insufficiencies with respect to the offices, the court shall order the commissioner to distribute the remaining assets among the liquidators of the offices in the manner as the court finds equitable."

SECTION 2. Section 241-1, Hawaii Revised Statutes, is amended by amending the definition of "bank" to read as follows:

““Bank” means and includes any national banking association, any bank organized under the laws of the State, any foreign bank doing business in the State under the authority of chapter , and any other corporation doing a banking business within the State under the authority of chapters 403 and 405.”

SECTION 3. Section 403-11, Hawaii Revised Statutes, is amended to read as follows:

**“§403-11 Terms implying conducting of banking business; restrictions on use; penalty.** No person (including firm, company, association, copartnership, or corporation, either domestic or foreign, except national banks) without having received a certificate of authority from the commissioner: shall advertise that the person or it is receiving or accepting money or savings and issuing notes or certificates of deposit or passbooks therefor; or make use of any office sign having any name or bearing any word or words indicating that its office or place of business is the office or place of business of a bank or that deposits are received there or payments made on check, or that any other form of banking business is transacted; or make use of or circulate any letterheads, blank notes, blank receipts, certificates, or circulars or other paper whatever, whether written or printed, having thereon any name, word, or words indicating that it is engaged in any banking business. Nor shall any [such] person or any agent of a foreign corporation solicit or receive deposits or transact any business in the way or manner of a banking business or in such a way or manner as to lead the public to believe that it is so engaged[.] unless the person or agent possesses a license as required under chapter . Nor shall any<sup>1</sup> person or agent transact business under any name, title, or descriptive term which contains the word “bank”, or “banker”, or “bankers”, or “banking”, or “savings bank”, or “savings”, or any other word in any language having the same or a similar meaning. The commissioner or an examiner may examine the accounts, books, and papers of every such person or agent to ascertain whether this section has been or is being violated.

Any person, violating this section, shall forfeit to the State \$100 a day for every day or part thereof during which the violation continues. Upon action brought by the commissioner the court may issue an injunction restraining any person or agent from further violating this section or from further acting in any way or manner as to imply or lead the public to believe that its business is of a banking character, as well during the pendency of such action as for all time, and may make any<sup>1</sup> other order or decree as may be proper.”

SECTION 4. Section 403-16, Hawaii Revised Statutes, is amended to read as follows:

**“§403-16 Foreign banks; powers and restrictions.** [No foreign bank shall be permitted to] Foreign banks shall engage in any banking business in the State [except as in this chapter provided.] only as authorized under this section or chapter .

Foreign banks not licensed under chapter shall be limited to the business of making and collecting loans, buying and selling, paying and collecting bills of exchange, issuing letters of credit, receiving money for transmission and transmitting the same by draft, check, cable, or otherwise; provided that no<sup>1</sup> bank shall be authorized to engage in any<sup>1</sup> business until it

has received from the commissioner a certificate permitting it to do so. The commissioner may require from the bank all facts necessary for the commissioner to determine whether or not the public convenience and advantage will be promoted by issuing the certificate, and may in the commissioner's discretion refuse to issue the certificate. [Such] The banks, when authorized to engage in any business [aforesaid,] in this State, shall possess and be entitled to exercise the same rights and privileges and be subject to the same limitations, requirements, and restrictions, as respects the business so authorized, as by this chapter are given to or placed upon other banks transacting a like business in the State."

SECTION 5. Chapter 405, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**"CHAPTER 405  
INTERNATIONAL AND FOREIGN BANKING  
BY HAWAII CORPORATIONS"**

SECTION 6. The department of planning and economic development shall be responsible for the promotion of international banking in Hawaii as authorized by this Act. The department shall develop and implement a promotional program encouraging foreign banks to establish offices in Hawaii by advertising the enactment of this enabling legislation and providing foreign banks with sufficient information so as to facilitate the application and licensing process. In carrying out its responsibilities, the department may:

- (1) Organize, conduct, sponsor, or cooperate in and assist the conduct of special institutes, conferences, demonstrations, and studies relating to the stimulation and attraction of foreign banks to establish offices in Hawaii;
- (2) Provide advisory services and technical assistance to foreign banks interested in establishing offices in Hawaii;
- (3) Prepare, publish, and distribute, with or without charge, technical studies, reports, bulletins, and other materials as it deems appropriate to properly inform foreign banks of the opportunity to establish offices and conduct business in Hawaii; and
- (4) Contract for services or hire temporary staff.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 1987-1988, for the promotion of international and foreign banking. The sum appropriated shall be expended by the department of planning and economic development for the purpose of this Act. The department shall submit a report of its promotion program to the Legislature twenty days before the convening of the Regular Session of 1988.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

Note

1. Prior to amendment, "such" appeared here.

## ACT 169

A Bill for an Act Relating to Job Application Processing Fees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 388, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§388- Job application processing fee.** Except as provided for by chapter 373 and rules adopted thereto, no employer shall require to be paid or to be borne by the director and such fine shall not be suspended. Each violation shall constitute a separate offense. Amounts so collected by the director shall be paid into the general fund.”

SECTION 2. Chapter 388, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§388- Penalties.** Any employer found in violation of section 388- shall be subject to a fine of not less than \$100 nor more than \$1,000 to be collected by the director and such fine shall not be suspended. Each violation shall constitute a separate offense. Amounts so collected by the director shall be paid into the general fund.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 170

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 521-44, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

**“(b) The landlord may require as a condition of a rental agreement a security deposit to be paid by or for the tenant for the items in subsection (a) [above] and no others, in an amount not in excess of a sum equal to one month’s rent. The landlord may not require or receive from or on behalf of a tenant at the beginning of a rental agreement any money other than the money for the first month’s rent and a security deposit as provided in this section. The security deposit shall not be construed as payment of the last month’s rent by the tenant[.], unless mutually agreed upon, in writing, by the landlord and tenant if the tenant gives forty-five days’ notice of vacating the premises; in entering such agreement, the landlord shall not be deemed to have waived the right to pursue legal remedies against the tenant for any damages the tenant causes. Any such security deposit shall be held by the landlord for the tenant and the claim of the tenant to the security deposit shall be prior to the claim of any creditor of the landlord, including a trustee in bankruptcy, even if the security deposits are commingled.”**

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

## ACT 171

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 171

S.B. NO. 162

A Bill for an Act Relating to Motor Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-41, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every owner of a motor vehicle which is to be operated upon the public highways shall, for each vehicle owned, except as herein otherwise provided, apply to the director of finance of the county where the vehicle is to be operated, for the registration thereof. If a vehicle is moved to another county and is to be operated upon the public highways of that county, the existing certificate of registration shall be valid until its expiration date, at which time the owner shall apply to the director of finance of the county in which the vehicle is then located for the registration of the vehicle, whether or not the owner is domiciled in the county or the owner's principal place of business is in that county, except that this provision shall not apply to vehicles which are temporarily transferred to another county for a period of not more than three months.”

SECTION 2. Section 286-50, Hawaii Revised Statutes, is amended to read as follows:

“**§286-50 Registration of vehicle located outside State; correction of errors; fee for correcting errors.** (a) The director of finance of a county shall not accept an application for registration of any vehicle under this part unless the vehicle at the time of application is to be operated on the public highways of that county as required under section 286-41 or, if the vehicle is not within the State [or], the vehicle is currently registered in the State in the name of a bona fide resident of the State. However, the director of finance shall accept and grant an application and issue number plates for a new unlicensed vehicle which is not within the State when the application is accompanied by a written certificate signed by the seller, who shall be a person licensed to sell new motor vehicles under chapter 437, giving the name and local address of the seller and the purchaser and a description of the vehicle, including a statement of the weight thereof, and, when the serial or engine and factory numbers of such new vehicle are not available, a statement of such fact, and also by a written certificate of the purchaser giving the purchaser's name, the purchaser's local address and permanent residence, and the name of the seller, a full description of the vehicle, and a statement that the use tax payable thereon has been paid or that the same will be paid within sixty days of the arrival of the vehicle in the State. One copy of the application when granted shall be furnished by the director of finance to the director of taxation. In a case where the serial or engine and factory numbers of the new vehicle are not available at the time of the application, the dealer shall certify to the serial or engine and factory numbers thereof upon receipt of the numbers from the factory or manufacturer, which certificate the director of finance shall enter in the director of finance's registration records. Within sixty days after arrival in the State of any such vehicle, unless the same has been shown in the application or

subsequent certification, the dealer shall furnish to the director of finance a certificate of the dealer, identifying the vehicle by the serial or engine and factory numbers or other description, and evidence of arrival in the State of any such vehicle, which information the director of finance shall enter in the director of finance's registration records.

If the serial or engine and factory numbers of the vehicle, as given in the dealer's certificate of the serial or engine and factory numbers, subsequently prove to be erroneous on account of error in the information received by the dealer from the factory or manufacturer, or for any other reason, the dealer shall notify the director of finance of the error by a written certificate of the dealer stating the reasons for the nature of the error and the correction which should be made in the registration records; and upon receipt of the dealer's certificate by the director of finance, the registration records shall be corrected accordingly. A fee of \$1 shall be paid by the dealer and collected by the director of finance for each instance of correction of the registration records.

(b) Notwithstanding the first paragraph of [this section,] subsection (a), the director of finance shall accept and grant an application, and issue number plates, when the vehicle, although not within the State, is to be registered in the name of a United States Senator from the State, a United States Representative from the State, or members of their congressional staffs who are bona fide residents of the State, and the application is accompanied by:

- (1) A written certificate setting forth the name, local address, and current address of the applicant; the name and business address of the seller; a full description of the vehicle, including a statement of the weight thereof, and the serial or engine and factory numbers; and such other information as may be required by the director of finance;
- (2) A copy of the bill of sale and such other documents as may be required by the director of finance, to establish legal ownership; and
- (3) A written statement signed by the applicant stating that the use tax payable thereon will be paid within sixty days of the arrival of the vehicle in the State.

The applicant shall be responsible for supplying to the director of finance all information relative to the correct serial or engine and factory numbers, and the payment of correction fees, in the same manner and to the same extent as is required hereinabove of a dealer. One copy of the application, when granted, shall be furnished by the director of finance to the state director of taxation.

No tax or other fees required by law in connection with the registration of a vehicle not within the State at the time of the application shall be refundable."

SECTION 3. Section 286-61, Hawaii Revised Statutes, is amended to read as follows:

\* **"§286-61 Penalty.** Any person who violates any of the provisions of sections 286-41 to 286-60 shall be fined not less than \$5 nor more than \$1,000 or imprisoned not more than one year, or both[.]; provided that any corporate owner of a motor vehicle who fails to register a motor vehicle as required by section 286-41(a) following a transfer of the vehicle between counties shall be fined \$1,000 for each violation."

ACT 172

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

ACT 172

S.B. NO. 432

A Bill for an Act Relating to the Public Employees Health Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 87-4.5, Hawaii Revised Statutes, is amended to read as follows:

“[~~§~~87-4.5] State and county contributions to [the] fund; [for] employees [specified in section 87-1(5)(A)(ix) who retire after June 30, 1984,] with less than ten years of [credited] service[, excluding sick leave]. (a) This section shall apply to state and county contributions to the fund for employees specified in section 87-1(5)(A)(ix) who retire after June 30, 1984, with less than ten years of credited service, excluding sick leave.

[(a)] (b) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of [~~\$22.78~~] \$25.96 for the period July 1, 1987 to June 30, 1988 and \$28.56 for the period July 1, 1988 to June 30, 1989 for each of their respective employee-beneficiaries and [~~\$70.04~~] \$79.84 for the period July 1, 1987 to June 30, 1988 and \$87.82 for the period July 1, 1988 to June 30, 1989 for each respective employee-beneficiary with a dependent-beneficiary enrolled under this section. These contributions shall be used for the payment of costs of [hospital, medical, and surgical benefits of] a health benefits plan; provided that the monthly contribution shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county shall not exceed the monthly contribution of a family plan for both of them.

[(b)] (c) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of [~~\$5.72~~] \$5.96 for the period July 1, [1985,] 1987, to June 30, [1986,] 1988, and [~~\$5.96~~] \$6.24 for the period July 1, [1986,] 1988, to June 30, [1987,] 1989, for each child who has not attained the age of nineteen of all employee-beneficiaries who are enrolled for dental benefits under this section. The contributions shall be used for the payment of costs of dental benefits of a health benefits plan. Notwithstanding any provisions to the contrary, no part of the fund shall be used to finance the contributions except a rate credit or reimbursement or earnings or interest therefrom received by the fund or general revenues appropriated for that purpose.

[(c)] (d) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of \$2.25 for each of their respective employees to be used towards the payment of group life insurance benefits for each employee enrolled under this section.

[(d)] (e) The State through the department of budget and finance and the several counties through their respective departments of finance shall advance the amount of their respective [employee-beneficiaries] employee-



beneficiaries' contributions to the fund on or before the first day of each month.

[(e)] (f) Contributions made by the State or the several counties shall not be considered as wages or salary of an employee-beneficiary, and no employee-beneficiary shall have any vested right in or be entitled to receive any part of any contribution made to the fund."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect July 1, 1987.

(Approved June 6, 1987.)

## ACT 173

S.B. NO. 526

A Bill for an Act Relating to Group Life Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431-572, Hawaii Revised Statutes, is amended to read as follows:

**"§431-572 Employee groups. (a)** The lives of a group of individuals may be insured under a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustee is deemed the policyholder, insuring employees of the employer for the benefit of persons other than the employer[, subject to the following requirements:]; provided that if the entire cost of the insurance has been borne by the employer and the employer uses the benefits for the purpose of purchasing employer securities distributed to employees from a pension, profit sharing, stock bonus, or employee stock ownership plan which has been qualified under Section 401 of the Internal Revenue Code, benefits may be made payable to the employer.

(b) Issuance of group life insurance policies shall be subject to the following requirements:

- (1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term employees shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors, or partnerships if the business of the employer and of such affiliated corporations, proprietors, or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term employees shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term employees shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in

ACT 174

and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership.

- (2) The premium for the policy shall be paid by the policyholder, either wholly from the employer's fund or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five per cent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- (3) The policy must cover at least ten employees at date of issue.
- (4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

ACT 174

S.B. NO. 774

A Bill for an Act Relating to the University of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§304- Graduate assistants; scholarship program.** The University of Hawaii shall grant scholarships, to graduate students who teach, conduct laboratory sessions, or perform any other type of instructional or research work for the University of Hawaii. The scholarships may be used to provide full or partial coverage of tuition and other fees. Scholarships awarded under this section shall be in accordance with rules adopted by the board of regents."

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

Note

1. Edited pursuant to HRS §23G-16.5.

## A Bill for an Act Relating to Valuation of Property.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 708-801, Hawaii Revised Statutes, is amended to read as follows:

**“§708-801 Valuation of property.** Whenever the value of property or services is determinative of the class or grade of an offense, or otherwise relevant to a prosecution, the following shall apply:

- (1) Except as otherwise specified in this section, value means the market value of the property or services at the time and place of the offense, or the replacement cost if the market value of the property or services cannot be determined.
- (2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertained market value, shall be evaluated as follows:
  - (a) The value of an instrument constituting an evidence of debt, such as a check, traveler’s check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;
  - (b) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.
- (3) When property has value but that value cannot be ascertained pursuant to the standards set forth above, the value shall be deemed to be an amount not exceeding [\$50] \$100.
- (4) When acting intentionally or knowingly with respect to the value of property or services is required to establish an element of an offense, the value of property or services shall be prima facie evidence that the defendant believed or knew the property or services to be of that value. When acting recklessly with respect to the value of property or services is sufficient to establish an element of an offense, the value of the property or services shall be prima facie evidence that the defendant acted in reckless disregard of the value.
- (5) When acting intentionally or knowingly with respect to the value of property or services is required to establish an element of an offense, it is a defense, which reduces the class or grade of the offense to a class or grade of offense consistent with the defendant’s state of mind, that the defendant believed the valuation of the property or services to be less. When acting recklessly with respect to the value of property or services is required to establish an element of an offense, it is a defense that the defendant did not recklessly disregard a risk that the property was of the specified value.
- (6) Amounts involved in thefts committed pursuant to one scheme or course of conduct, whether the property damaged be of one person or several persons, may be aggregated in determining the

## ACT 176

class or grade of the offense. Amounts involved in offenses of criminal property damage committed pursuant to one scheme or course of conduct, whether the property damaged be of one person or several persons, may be aggregated in determining the class or grade of the offense.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 176

S.B. NO. 797

A Bill for an Act Relating to the Penal Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 707-741, Hawaii Revised Statutes, is amended to read as follows:

“§707-741 Incest. (1) A person commits the offense of incest if he commits an act of sexual [intercourse] penetration with another who is within the degree<sup>1</sup> of consanguinity or affinity within which marriage is prohibited.

(2) Incest is a class C felony.”

SECTION 2. Section 708-831, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of theft in the second degree if the person commits theft:

- (a) By obtaining property from the person of another;
- (b) Of property or services the value of which exceeds \$300;
- (c) Of a firearm;
- (d) Of dynamite or other explosive;
- (e) By having in [his] the person's possession a live animal or the carcass or meat, of the bovine, equine, swine, or sheep species, while in or upon premises which [he] the person entered knowingly or remained unlawfully in or upon, and which are fenced or enclosed in a manner designed to exclude intruders or by having in [his] the person's possession [said] such live animal, carcass, or meat in any other location.”

SECTION 3. Section 710-1077, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

- “(1) A person commits the offense of criminal contempt of court if:
- (a) [He] The person recklessly engages in disorderly or contemptuous behavior, committed during the sitting of a court in its immediate view and presence, and directly tending to interrupt its proceedings or impair the respect due to its authority; [or]
  - (b) [He] The person creates a breach of peace or a disturbance with intent to interrupt a court's proceedings; [or]
  - (c) As an attorney, clerk, or other officer of the court, [he] the person knowingly fails to perform or violates a duty of [his] the person's

office, or knowingly disobeys a lawful directive or order of a court; [or]

- (d) [He] The person knowingly publishes a false report of a court's proceedings; [or]
- (e) Knowing that [he] the person is not authorized to practice law, [he] the person represents [himself] the person's self to be an attorney and acts as such in a court proceeding;
- (f) [He] The person intentionally records or attempts to record the deliberation of a jury; [or]
- (g) [He intentionally] The person knowingly disobeys or resists the process, injunction, or other mandate of a court; [or]
- (h) [He] The person intentionally refuses to be qualified as a witness in any court or, after being qualified, to answer any proper interrogatory without a privilege to refuse to answer; [or]
- (i) Being a juror, [he] the person intentionally, without permission of the court, fails to attend a trial or official proceeding to which [he] the person has been<sup>1</sup> chosen to serve; or
- (j) [He] The person is in violation or disobedience of any injunction or order expressly provided for in part V of chapter 712.”

SECTION 4. Section 711-1100, Hawaii Revised Statutes, is amended to read as follows:

**“§711-1100 Definitions of terms in this chapter. In this chapter, unless a different meaning plainly is required:**

“Animal” includes every living creature, except a human being[;].

“Cruelty”, “torture” or “torment” includes every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted[;].

“Obstructs” means renders impassable without unreasonable inconvenience or hazard[;].

“Private place” means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access[;].

“Public” means affecting or likely to affect a substantial number of persons[;].

“Public place” means a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.”

SECTION 5. Section 712-1213, Hawaii Revised Statutes, is amended to read as follows:

**“§712-1213 Displaying indecent material [or words]; prima facie evidence.** The fact that a person engaged in the conduct specified by [sections] section 712-1211 [or 712-1212] is prima facie evidence that [he] the person engaged in that conduct with knowledge of or in reckless disregard of the character, content, or connotation of the material [or word] which is displayed.”

SECTION 6. Section 712-1240, Hawaii Revised Statutes, is amended by amending the definition of “dosage unit” to read:

““Dosage unit” for purposes of section 712-1241 and section 712-1242 means an entity designed and intended for singular consumption or administration.”

## ACT 176

SECTION 7. Section 712-1242, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of promoting a dangerous drug in the second degree if he knowingly:

- (a) Possesses fifty or more capsules, tablets, ampules, dosage unit, or syrettes, containing one or more dangerous drugs; or
- (b) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight or:<sup>1</sup>
  - (i) One-eighth ounce or more, containing heroin, morphine, or cocaine or any of their respective salts; or
  - (ii) One-half ounce or more, containing any dangerous drug; or
- (c) Distributes any dangerous drug in any amount.”

SECTION 8. Section 712-1249.5, Hawaii Revised Statutes, is amended to read as follows:

“§712-1249.5<sup>1</sup> **Commercial promotion of marijuana.** (1) A person commits the offense of commercial promotion of marijuana if the person knowingly:

- (a) Possesses marijuana having an aggregate weight of forty-four pounds or more;
- (b) Distributes marijuana having an aggregate weight of two and two-tenths pounds or more;
- (c) Possesses, cultivates, or has under the person’s control one hundred or more marijuana plants;
- (d) Cultivates on land owned by another person, including land owned by the government or other legal entity, twenty-five or more marijuana plants, unless the person has the express permission from the owner of the land to cultivate the marijuana or the person has a legal or an equitable ownership interest in the land or the person has a legal right to occupy the land; or
- (e) Uses, or causes to be used, any firearm or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner used is capable of causing death or serious bodily injury, substantial bodily injury, or other bodily injury as defined in chapter 707 in order to prevent the theft, removal, search and seizure, or destruction of marijuana.

(2) Commercial promotion [in the second degree] of marijuana is a class B felony.”

SECTION 9. Section 712-1253, Hawaii Revised Statutes, is amended to read as follows:

“§712-1253 **Penalties under other laws.** Any penalty imposed for violation of this [part] chapter or chapter 329 is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.”

SECTION 10. Section 712-1255, Hawaii Revised Statutes, is amended to read as follows:

1. By amending subsection (1) to read:

“(1) Whenever any person who has not previously been convicted of any offense under this [part of] chapter or chapter 329 or under any statute of the United States or of any state relating to a dangerous drug, harmful drug, detrimental drug, or an intoxicating compound, pleads guilty to or is found

guilty of promoting a dangerous drug, harmful drug, detrimental drug, or an intoxicating compound under [sections] section 712-1243, 712-1245, 712-1246, 712-1248, 712-1249, or 712-1250, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided.”

2. By amending subsection (5) to read:

“(5) After conviction, for any offense under this [part] chapter or chapter 329, but prior to sentencing, the court shall be advised by the prosecutor whether the conviction is defendant’s first or a subsequent offense. If it is not a first offense, the prosecutor shall file an information setting forth the prior convictions. The defendant shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit the trial, before a jury if the defendant has a right to trial by jury and demands a jury, on the sole issue of the defendant’s identity with the person previously convicted.”

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval; provided that this Act shall not affect any rights or duties that matured, penalties that were incurred, or proceedings that were begun before its effective date.

(Approved June 6, 1987.)

**Note**

1. So in original.

**ACT 177**

S.B. NO. 1053

A Bill for an Act Relating to Public Contracts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that section 103-34, Hawaii Revised Statutes, which requires a public contractor for other than public works to provide a bond in an amount equal to fifty per cent of the contract price, works to the disadvantage of nonprofit rehabilitation facilities serving the handicapped. This present statute is an obstacle to the development of job training and employment for handicapped persons. The legislature further finds that:

- (1) Bonding companies and local banks have refused bonding to rehabilitation facilities contracting work with the counties on grounds that as nonprofit organizations there are no means of indemnifying the bonding company against losses.
- (2) In lieu of obtaining a surety bond, a nonprofit organization must borrow the fifty per cent of the contract amount and deposit it as a performance guaranty. At today’s interest rates, it is often necessary to pay twenty-five per cent interest for such loans. This amount then must be charged to the State or county as a direct cost on the part of the contractor. As such, it is a substantial and unnecessary expense to the State or county.

**ACT 178**

- (3) Since commercial enterprises are able to obtain surety bonding, they can bid at a lower cost. Further, since state agencies are exempt from the bonding requirement, they can submit a contract budget which excludes the cost for providing performance guaranty.
- (4) The effects of the bonding requirement is to prohibit rehabilitation facilities from contracting government jobs which provide training and employment for handicapped persons.

The purpose of this Act is to waive the public contract bonding requirements for qualified rehabilitation facilities serving handicapped persons.

SECTION 2. Section 103-34, Hawaii Revised Statutes, is amended to read as follows:

**“§103-34 Contractor’s bond; conditions. (a)** Before any contract is entered into, the party with whom the contract is proposed to be made shall give security for the performance thereof by a good and sufficient bond conditioned for the full and faithful performance of the contract in accordance with the terms and intent thereof and also for the prompt payment to all others for all labor and materials furnished by them to the party and used in the prosecution of the work provided for in the contract. The bond shall be in an amount equal to fifty per cent of the contract price including amounts estimated to be required for extra work, or in the case of a price-term, open-end, or requirements contract under which the total amount to be paid to the contractor cannot be accurately estimated at the time the contract is to be awarded, the bond amount shall be as designated in the bid documents; provided that in the case of a contract for the construction of public works, buildings, roads, or other site improvements, the bond shall be in an amount equal to one hundred per cent of the contract price, including amounts estimated to be required for extra work. The bond shall also by its terms inure to the benefit of any and all persons entitled to file claims for labor performed or materials furnished in the work so as to give them a right of action as contemplated by section 507-17.

**(b) The bonding requirements for nonprofit qualified rehabilitation facilities as defined in section 103-81 shall be waived with respect to contracts which provide job training and employment for handicapped persons.”**

SECTION 3. This Act shall not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

**ACT 178**

**S.B. NO. 1288**

A Bill for an Act Relating to Real Estate.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 467-19, Hawaii Revised Statutes, is amended to read as follows:



**“§467-19 Management of fund.** (a) The sums received by the real estate commission for deposit in the real estate recovery fund shall be held by the commission in trust for carrying out the purpose of the real estate recovery fund. The real estate commission, as the trustee of the recovery fund, shall be authorized to expend [such] the funds to retain private legal counsel to represent the commission in any action involving the real estate recovery fund. These funds may be invested and reinvested in the same manner as funds of the state employees retirement system, and the interest from these investments shall be deposited to the credit of the real estate education fund, and which shall be available to the commission for educational purposes, which is hereby created. The real estate commission, as trustee of the real estate education fund, may invest and reinvest the real estate education fund in the same manner as funds of the state employees retirement system. The commission for investment purposes, may combine the real estate education and recovery funds and invest and reinvest the combined funds in the same manner as funds of the state employees retirement system. The commission shall keep separate accounting records for the two funds.

(b) Educational purposes as used in subsection (a) shall include those purposes to promote the advancement of education and research in the field of real estate for the benefit of the public and those licensed under the provisions of this chapter and the improvement and more efficient administration of the real estate industry. The commission, in its discretion, may use any and all moneys in the real estate education fund consistent with the above. The commission and the director of commerce and consumer affairs may also use moneys in the education fund to employ necessary personnel, not subject to chapters 76 and 77, to fully effectuate subsection (b) and carry out its purpose.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 179

S.B. NO. 1357

A Bill for an Act Relating to the Molokai Irrigation and Water Utilization Project.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 175, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§175- Molokai irrigation system water users advisory board; establishment; meetings.** (a) There is established a Molokai irrigation system water users advisory board, to be appointed by the governor under section 26-34. The advisory board shall consist of five members, as follows:

- (1) A homestead farmer user on Molokai;
- (2) A nonhomestead farmer user on Molokai;
- (3) The president of the Molokai county farm bureau;
- (4) The president of Hikiola Cooperative, Inc.; and
- (5) The president of the Molokai-Lanai soil and water conservation district.

## ACT 180

The members of the advisory board shall serve without compensation, but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of their duties.

(b) The advisory board shall meet with the department of land and natural resources division of water and land development at least six times each year. The meetings shall be held on Molokai, whenever possible.

The advisory board shall advise the division on matters of concern to the users of the system, and shall obtain from the division information regarding the system, including, but not limited to, a long-range plan for the system."

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval and shall be repealed four years after the effective date.

(Approved June 6, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 180

S.B. NO. 1526

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### **"CHAPTER RISK RETENTION**

§ -1 Definitions. As used in this chapter:

"Commissioner" means the insurance commissioner of this State.

"Completed operations liability" means liability arising out of the installation, maintenance, or repair of any product at a site which is not owned or controlled by any person who:

- (1) Performs that work; or
- (2) Hires an independent contractor to perform that work; but shall include liability for activities which are completed or abandoned before the date of the occurrence giving rise to the liability.

"Domicile", for purposes of determining the state in which a purchasing group is domiciled, means:

- (1) For a corporation, the state in which the purchasing group is incorporated; or
- (2) For an unincorporated entity, the state of its principal place of business.

"Hazardous financial condition" means that, based on its present or reasonably anticipated financial condition, a risk retention group, although not yet financially impaired or insolvent, is unlikely to be able to:

- (1) Meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or
- (2) Pay other obligations in the normal course of business.

“Insurance” means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under the laws of this State.

“Liability” means legal liability for damages, including costs of defense, legal costs and fees, and other claims expenses because of injuries to other persons, damage to their property, or other damage or loss to those other persons resulting from or arising out of:

- (1) Any business, whether for profit or nonprofit, trade, product, services, including professional services, premises, or operations; or
- (2) Any activity of any state or county government, or any agency or political subdivision thereof; but does not include personal risk liability and an employer’s liability with respect to its employees other than legal liability under the Federal Employers’ Liability Act, 45 U.S.C. 51 et seq.

“Personal risk liability” means liability for damages because of injury to any person, damage to property, or other loss or damage resulting from any personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in the definition of “liability”.

“Plan of operation” or “feasibility study” means an analysis which presents the expected activities and results of a risk retention group including, not less than the following:

- (1) The coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer;
- (2) Historical and expected loss experience of the proposed members and national experience of similar exposures to the extent that this experience is reasonably available;
- (3) Pro forma financial statements and projections;
- (4) Appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premiums or participation levels required to commence operations and to prevent a hazardous financial condition;
- (5) Identification of management, underwriting procedures, managerial oversight methods, investment policies; and
- (6) Other matters as may be prescribed by the commissioner for liability insurance companies authorized by the insurance laws of the state in which the risk retention group is chartered.

“Product liability” means liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage, including damages resulting from the loss of use of property, arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product, but does not include the liability of any person for those damages if the product involved was in the possession of the person when the incident giving rise to the claim occurred.

“Purchasing group” means any group which:

- (1) Has as one of its purposes the purchase of liability insurance on a group basis;
- (2) Purchases this insurance only for its group members and only to cover their similar or related liability exposure, as described in subparagraph (C);<sup>1</sup>
- (3) Is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations; and

**ACT 180**

(4) Is domiciled in any state.

“Risk retention group” means any corporation or other limited liability association formed under the laws of any state, Bermuda, or the Cayman Islands:

- (1) Whose primary activity consists of assuming and spreading all, or any portion, of the liability exposure of its group members;
- (2) Which is organized for the primary purpose of conducting the activity described under paragraph (1);
- (3) Which:
  - (A) Is chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state; or
  - (B) Before January 1, 1985 was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before this date, had certified to the insurance commissioner of at least one state that it satisfied the capitalization requirements of that state, except that any group shall be considered to be a risk retention group only if the group has been engaged in business continuously since this date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability, as defined in the Product Liability Risk Retention Act of 1981, 15 U.S.C. 3901 et seq., before the date of the enactment of the Liability Risk Retention Act of 1986, P.L. 99-563;
- (4) Which does not exclude any person from membership in the group solely to provide for members of the group a competitive advantage over the person;
- (5) Which has as its:
  - (A) Members only persons who have an ownership interest in the group and which has as its owners only persons who are members who are provided insurance by the risk retention group; or
  - (B) Sole member and sole owner an organization which is owned by persons who are provided insurance by the risk retention group;
- (6) Whose members are engaged in business or activities similar or related to the liability of which these members are exposed by virtue of any related, similar, or common business trade, product, services, premises, or operations;
- (7) Whose activities do not include the provision of insurance other than:
  - (A) Liability insurance for assuming and spreading all or any portion of the liability for its group members; and
  - (B) Reinsurance with respect to the liability of any other risk retention group, or any members of another group, which is engaged in businesses or activities so that this group or member meets the requirement described in paragraph (6) from membership in the risk retention group which provides this reinsurance; and
- (8) The name of which includes the phrase “risk retention group”.

“State” means any state of the United States or the District of Columbia.

**§ -2 Risk retention groups chartered in this State.** A risk retention group seeking to be chartered in this State shall be chartered and licensed as a liability insurance company authorized by the insurance laws of this State and, except as provided elsewhere in this chapter, shall comply with all of the laws, rules, and requirements applicable to these insurers chartered and licensed in this State and with section -3 to the extent these requirements are not a limitation on laws, rules, or requirements of this State. Prior to offering insurance in any state, each risk retention group shall also submit for approval to the commissioner of this State a plan of operation or a feasibility study and revisions of such plan or study if the group intends to offer any additional lines of liability insurance. Immediately upon receipt of an application for charter, the commissioner shall provide summary information concerning the filing to the National Association of Insurance Commissioners, including:

- (1) The name of the risk retention group;
- (2) The identity of the initial members of the group;
- (3) The identity of those individuals who organized the group or who will provide administrative services or otherwise influence or control the activities of the group;
- (4) The amount and nature of initial capitalization;
- (5) The coverages to be afforded; and
- (6) The states in which the group intends to operate.

Providing notification to the National Association of Insurance Commissioners is in addition to and shall not be sufficient to satisfy the requirements of section -3 or any other sections of this chapter.

**§ -3 Risk retention groups not chartered in this State.** Risk retention groups chartered in states other than this State and seeking to do business as a risk retention group in this State shall observe and abide by the laws of this State as follows:

- (1) Before offering insurance in this State, a risk retention group shall submit to the commissioner:
  - (A) A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, date of chartering, its principal place of business, and such other information, including information on its membership, as the commissioner of this State may require to verify that the risk retention group is qualified as a risk retention group;
  - (B) A copy of its plan of operations or a feasibility study and revisions of this plan or study submitted to its state of domicile; provided that the provision relating to the submission of a plan of operation or a feasibility study shall not apply with respect to any line or classification of liability insurance which was:
    - (i) Defined in the Product Liability Risk Retention Act of 1981, 15 U.S.C. 3901 et seq., before October 27, 1986; and
    - (ii) Offered before that date by any risk retention group which had been chartered and operating for not less than three years before that date; and
  - (C) A statement of registration which designates the commissioner as its agent for the purpose of receiving service of legal documents or process.

- (2) Any risk retention group doing business in this State shall submit to the commissioner:
  - (A) A copy of the group's financial statement submitted to the insurance commissioner of its state of domicile, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a qualified loss reserve specialist under criteria established by the National Association of Insurance Commissioners;
  - (B) A copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination in its state of domicile;
  - (C) Upon request by the commissioner, a copy of any audit performed with respect to the risk retention group; and
  - (D) Information as may be required to verify its continuing qualification as a risk retention group;
- (3) Taxation of risk retention groups shall be as follows:
  - (A) All premiums paid for coverages within this State to risk retention groups shall be subject to taxation at the same rate and subject to the same interest, fines and penalties for nonpayment as that applicable to foreign admitted insurers;
  - (B) To the extent agents or brokers are utilized, the agents or brokers shall report and pay the taxes for the premiums for risks which the agents or brokers have placed with or on behalf of a risk retention group not chartered in this State; or
  - (C) To the extent agents or brokers are not utilized or fail to pay the tax, each risk retention group shall pay the tax for risks insured within the State; provided that each risk retention group shall report all premiums paid to it for risks insured within the State;
- (4) Any risk retention group shall comply with section 431-641 to 431-648 regarding deceptive, false or fraudulent acts or practices, and unfair claims settlement practices; provided that if the commissioner seeks an injunction regarding such conduct, the injunction shall be obtained from a court of competent jurisdiction;
- (5) Any risk retention group shall submit to an examination by the commissioner to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered has not initiated an examination or does not initiate an examination within sixty days after a request by the commissioner of this State. Any such examination shall be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the National Association of Insurance Commissioner's Examiner Handbook.
- (6) Any policy issued by a risk retention group shall contain in ten point type on the front page and the declaration page, the following notice:

**NOTICE**

This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws

and rules of your state. State insurance insolvency guaranty funds are not available for your risk retention group;

- (7) The following acts by a risk retention group are prohibited:
  - (A) The solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in such group; and
  - (B) The solicitation or sale of insurance by, or operation of, a risk retention group that is in a hazardous financial condition or is financially impaired;
- (8) No risk retention group shall be allowed to do business in this State if an insurance company is directly or indirectly a member or owner of this risk retention group, other than in the case of a risk retention group all of whose members are insurance companies;
- (9) No risk retention group may offer insurance policy coverage prohibited by chapter 431 or declared unlawful by the highest court of this State;
- (10) A risk retention group not chartered in this State and doing business in this State shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by any state insurance commissioner if there has been a finding of financial impairment after an examination under paragraph (5).

**§ -4 Compulsory associations.** (a) No risk retention group shall be permitted to join or contribute financially to any insurance insolvency guaranty fund, or similar mechanism, in this State, nor shall any risk retention group or its insureds receive any benefit from any such fund for claims arising out of the operations of such risk retention group.

(b) A risk retention group shall participate in this State's joint underwriting associations and mandatory liability pools as provided by any law of this State.

**§ -5 Countersignatures not required.** A policy of insurance issued to a risk retention group or any member of that group shall not be required to be countersigned as otherwise provided in section 431-104.

**§ -6 Purchasing groups; exemption from certain laws relating to the group purchase of insurance.** A purchasing group meeting the criteria established under the provisions of the Federal Liability Risk Retention Act of 1986, P.L. 99-563, shall be exempt from any law of this State relating to the creation of groups for the purchase of insurance, prohibition of group purchasing or any law that would discriminate against a purchasing group or its members. In addition, an insurer shall be exempt from any law of this State which prohibits providing, or offering to provide, to a purchasing group or its members advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages or other matters. A purchasing group shall be subject to all other applicable laws of this State.

**§ -7 Notice and registration requirements of purchasing groups.** (a) A purchasing group which intends to do business in this State shall furnish notice to the commissioner which shall include the following:

- (1) Identification of the state in which the group is domiciled;
- (2) Specification of the lines and classifications of liability insurance which the purchasing group intends to purchase;

## ACT 180

- (3) Identification of the insurance company from which the group intends to purchase its insurance and the domicile of such company;
- (4) Identification of the principal place of business of the group; and
- (5) Provision of other information as may be required by the commissioner to verify that the purchasing group qualifies as such under section -1.

(b) The purchasing group shall register with and designate the commissioner or other appropriate authority as its agent solely for the purpose of receiving service of legal documents or process, except that these requirements shall not apply in the case of a purchasing group which:

- (1) Was domiciled before April 1, 1986, and is domiciled on and after October 27, 1986 in any state of the United States;
- (2) Before October 27, 1986, purchased insurance from an insurance carrier licensed in any state, and since October 27, 1986, purchased its insurance from an insurance carrier licensed in any state;
- (3) Was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981, 15 U.S.C. 3901 et seq., before October 27, 1986; and
- (4) Does not purchase insurance that was not authorized for purposes of an exemption under that Act, as in effect before October 27, 1986.

§ -8 **Restrictions on insurance purchased by purchasing groups.** A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed agent or broker acting pursuant to the surplus lines laws and regulations of that state.

§ -9 **Administrative and procedural authority regarding risk retention groups and purchasing groups.** The commissioner is authorized to make use of any of the powers established under chapter 431 to enforce the laws of this State as long as those powers are not specifically preempted by the Product Liability Risk Retention Act of 1981, 15 U.S.C. 3901 et seq., as amended by the Risk Retention Amendments of 1986, P.L. 99-563. This includes, but is not limited to, the commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, and impose penalties. With regard to any investigation, administrative proceedings, or litigation, the commissioner may rely on the procedural law and rules of this State. The injunctive authority of the commissioner in regard to risk retention groups shall be restricted by the requirement that any injunction be issued by a court of competent jurisdiction.

§ -10 **Penalties.** A risk retention group which violates any provision of this chapter shall be subject to fines and penalties applicable to licensed insurers generally, including revocation of its license, the right to do business in this State, or both.

§ -11 **Duty of agents or brokers to obtain license.** Any person acting, or offering to act, as an agent or broker for a risk retention group or purchasing group, which solicits members, sells insurance coverage, purchases coverage for its members located within the State or otherwise does business in this State, before commencing any such activity, shall obtain a license from the commissioner.



**§ -12 Binding effect of orders issued in United States District Court.**

An order issued by any district court of the United States enjoining a risk retention group from soliciting or selling insurance, or operating in any state or in all states or in any territory or possession of the United States upon a finding that the group is in a hazardous financial condition shall be enforceable in the courts of this State.

**§ -13 Rules.** The commissioner may adopt rules under chapter 91, relating to risk retention groups as may be necessary or desirable to carry out this chapter."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

**Note**

1. So in original.

**ACT 181**

H.B. NO. 3

A Bill for an Act Relating to Sections 701-107, 701-108, 706-606.5, 706-610, 706-640, 706-656, 707-700, 707-702, 707-711, 707-730, 707-731, and 707-732.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 701-107, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) An offense defined by this Code or by any other statute of this State for which a sentence of imprisonment is authorized constitutes a crime. Crimes are of three grades: felonies, misdemeanors, and petty misdemeanors. Felonies [are of] include murder in the first and second degrees, attempted murder in the first and second degrees, and the following three classes: class A, class B, and class C."

SECTION 2. Section 701-108, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A prosecution for murder, murder in the first and second degrees, attempted murder, and attempted murder in the first and second degrees may be commenced at any time."

SECTION 3. Section 706-606.5, Hawaii Revised Statutes, is amended to read as follows:

**"§706-606.5 Sentencing of repeat offenders.** (1) Notwithstanding section 706-669 and any other law to the contrary, any person convicted of murder in the second degree, any class A felony, any class B felony, or any of the following class C felonies: section 707-703 relating to negligent homicide in the first degree; 707-711 relating to assault in the second degree; 707-713 relating to reckless endangering in the first degree; 707-716 relating to terroristic threatening in the first degree; 707-721 relating to unlawful imprisonment in the first degree; 707-732 relating to sexual assault or rape in the third degree; 707-735 relating to sodomy in the third degree; 707-736 relating to sexual abuse in the first degree; 707-751 relating to promoting child abuse in the second degree; 707-766 relating to extortion in the second degree; 708-811 relating to burglary in the second degree; 708-821 relating to

## ACT 181

criminal property damage in the second degree; 708-831 relating to theft in the first degree as amended by Act 68, Session Laws of Hawaii 1981; 708-831 relating to theft in the second degree; 708-852 relating to forgery in the second degree; 708-854 relating to criminal possession of a forgery device; 710-1031 relating to intimidation of a correctional worker; 710-1071 relating to intimidating a witness; 711-1103 relating to riot; 712-1203 relating to promoting prostitution in the second degree; 712-1221 relating to gambling in the first degree; 712-1224 relating to possession of gambling records in the first degree; 712-1243 relating to promoting a dangerous drug in the third degree; 712-1247 relating to promoting a detrimental drug in the first degree; 134-7 relating to ownership or possession of firearms or ammunition by persons convicted of certain crimes; 134-8 relating to ownership, etc., of prohibited weapons; 134-9 relating to permits to carry, or who is convicted of attempting to commit murder in the second degree, any class A felony, any class B felony, or any of the class C felony offenses enumerated above and who has a prior conviction or prior convictions for the following felonies, including an attempt to commit the same: murder, murder in the first or second degree, a class A felony, a class B felony, [or] any of the class C felony offenses enumerated above, or any felony conviction of another jurisdiction shall be sentenced to a mandatory minimum period of imprisonment without possibility of parole during such period as follows:

- (a) One prior felony conviction:
  - (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—ten years;
    - [(i)] (ii) Where the instant conviction is for a class A felony—six years, eight months;
    - [(ii)] (iii) Where the instant conviction is for a class B felony—three years, four months;
    - [(iii)] (iv) Where the instant conviction is for a class C felony offense enumerated above—one year, eight months;
- (b) Two prior felony convictions:
  - (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—twenty years;
    - [(i)] (ii) Where the instant conviction is for a class A felony—thirteen years, four months;
    - [(ii)] (iii) Where the instant conviction is for a class B felony—six years, eight months;
    - [(iii)] (iv) Where the instant conviction is for a class C felony offense enumerated above—three years, four months;
- (c) Three or more prior felony convictions:
  - (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—thirty years;
    - [(i)] (ii) Where the instant conviction is for a class A felony—twenty years;
    - [(ii)] (iii) Where the instant conviction is for a class B felony—ten years;
    - [(iii)] (iv) Where the instant conviction is for a class C felony offense enumerated above—five years.

(2) Except as in subsection (3), a person shall not be sentenced to a mandatory minimum period of imprisonment under this section unless the instant felony offense was committed during such period as follows:

- (a) Within twenty years after a prior felony conviction where the prior felony conviction was for murder in the first degree or attempted murder in the first degree;
  - (b) Within twenty years after a prior felony conviction where the prior felony conviction was for murder in the second degree or attempted murder in the second degree;
  - [(a)] (c) Within twenty years after a prior felony conviction where the prior felony conviction was for a class A felony;
  - [(b)] (d) Within ten years after a prior felony conviction where the prior felony conviction was for a class B felony;
  - [(c)] (e) Within five years after a prior felony conviction where the prior felony conviction was for a class C felony offense enumerated above[.];
  - (f) Within the maximum term of imprisonment possible after a prior felony conviction of another jurisdiction.
- (3) If a person was sentenced for a prior felony conviction to a special term under section 706-667, then the person shall not be sentenced to a mandatory minimum period of imprisonment under this section unless the instant felony offense was committed during such period as follows:
- (a) Within eight years after a prior felony conviction where the prior felony conviction was for a class A felony;
  - (b) Within five years after the prior felony conviction where the prior felony conviction was for a class B felony;
  - (c) Within four years after the prior felony conviction where the prior felony conviction was for a class C felony [offenses] offense enumerated above.
- (4) The sentencing court may impose the above sentences consecutive to any sentence imposed on the defendant for a prior conviction, but such sentence shall be imposed concurrent to the sentence imposed for the instant conviction. The court may impose a lesser mandatory minimum period of imprisonment without possibility of parole than that mandated by this section where the court finds that strong mitigating circumstances warrant such action. Strong mitigating circumstances shall include, but will not be limited to, the provisions of section 706-621. The court shall provide a written opinion stating its reasons for imposing the lesser sentence.

For purposes of this section:

- [(a)] A prior felony conviction is a conviction for a felony offense which was committed after a previous felony conviction;
- [(b)] (a) Convictions under two or more counts of an indictment or complaint shall be considered a single conviction without regard to when the convictions occur;
- [(c)] (b) A prior conviction in this or another jurisdiction shall be deemed a felony conviction if it was punishable by a sentence of death or of imprisonment in excess of one year;
- [(d)] (c) A conviction occurs on the date judgment is entered.”

SECTION 4. Section 706-610, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) Apart from first and second degree murder and attempted first and second degree murder, felonies defined by this Code are classified, for the purpose of sentence, into three classes, as follows:

- (a) Class A felonies;
- (b) Class B felonies; and
- (c) Class C felonies.

**ACT 181**

A felony is a class A, class B, or class C felony when it is so designated by this Code. [A] Except for first and second degree murder and attempted first and second degree murder, a crime declared to be a felony, without specification of class, is a class C felony."

SECTION 5. Section 706-640, Hawaii Revised Statutes, is amended to read as follows:

**"§706-640 Authorized fines.** A person who has been convicted of an offense may be sentenced to pay a fine not exceeding:

- (1) \$50,000, when the conviction is of a class A felony[.]; murder in the first or second degree, or attempted murder in the first or second degree;
- (2) \$25,000, when the conviction is of a class B felony;
- (3) \$10,000, when the conviction is of a class C felony;
- (4) \$2,000, when the conviction is of a misdemeanor;
- (5) \$1,000, when the conviction is of a petty misdemeanor or a violation;
- (6) Any higher amount equal to double the pecuniary gain derived from the offense by the defendant;
- (7) Any higher or lower amount specifically authorized by statute."

SECTION 6. Section 706-656, Hawaii Revised Statutes, is amended to read as follows:

**"[§706-656]] Terms of imprisonment for first and second degree murder and attempted first and second degree murder.** (1) Persons convicted of first degree murder or first degree attempted murder shall be sentenced to life imprisonment without possibility of parole.

As part of such sentence the court shall order the director of the department of social services and housing and the Hawaii paroling authority to prepare an application for [commutation of] the governor to commute the sentence to life imprisonment with parole at the end of twenty years of imprisonment[.]; provided that persons who are repeat offenders under section 706-606.5 shall serve at least the applicable mandatory minimum term of imprisonment.

(2) Persons convicted of second degree murder and attempted second degree murder shall be sentenced to life imprisonment with possibility of parole. The minimum length of imprisonment shall be determined by the Hawaii paroling authority[.]; provided that persons who are repeat offenders under section 706-606.5 shall serve at least the applicable mandatory minimum term of imprisonment."

SECTION 7. Section 707-700, Hawaii Revised Statutes, is amended by amending the definition of "sexual contact" to read:

**"**"Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor, or <sup>1</sup> of the sexual or other intimate parts of the actor by the person, whether directly or through the clothing or other material intended to cover the sexual or other intimate parts."<sup>1</sup>

SECTION 8. Section 707-702, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

**"(2)** In a prosecution for murder in the first and second degrees it is a defense, which reduces the offense to manslaughter, that the defendant was, at the time he caused the death of the other person, under the influence of extreme mental or emotional disturbance for which there is a reasonable explanation. The reasonableness of the explanation shall be determined

from the viewpoint of a person in the defendant's situation under the circumstances as he believed them to be."

SECTION 9. Section 707-730, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

- if:
- (a) The person knowingly subjects another person to an act of sexual penetration by strong compulsion;
  - (b) The person knowingly subjects to sexual penetration another person who is less than fourteen years old[.]; provided this paragraph shall not be construed to prohibit practitioners licensed under chapter 453, 455, or 460, from performing any act within their respective practices."

SECTION 10. Section 707-731, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

- (1) A person commits the offense of sexual assault in the second degree if:
- (a) The person knowingly subjects another person to an act of sexual penetration by compulsion;
  - (b) The person knowingly subjects to sexual penetration another person who is mentally defective, mentally incapacitated, or physically helpless; [or]
  - (c) The person, while employed in a state correctional facility, knowingly subjects to sexual penetration an imprisoned person[.]; provided paragraphs (b) and (c) shall not be construed to prohibit practitioners licensed under chapter 453, 455, or 460, from performing any act within their respective practices."

SECTION 11. Section 707-732, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

- (1) A person commits the offense of sexual assault in the third degree if:
- (a) The person recklessly subjects another person to an act of sexual penetration by compulsion;
  - (b) The person knowingly subjects to sexual contact another person who is less than fourteen years old or causes such a person to have sexual contact with the person;
  - (c) The person knowingly subjects to sexual contact another person who is mentally defective, mentally incapacitated, or physically helpless, or causes such a person to have sexual contact with the actor; or
  - (d) The person, while employed in a state correctional facility, knowingly subjects to sexual contact an imprisoned person or causes such person to have sexual contact with the actor[.];
  - (e) The person knowingly, by strong compulsion, has sexual contact with another person or causes another person to have sexual contact with the actor; provided that paragraphs (b), (c), and (d) shall not be construed to prohibit practitioners licensed under chapter 453, 455, or 460, from performing any act within their respective practices."

## ACT 182

SECTION 12. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 14. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

### Note

1. So in original.

## ACT 182

H.B. NO. 208

A Bill for an Act Relating to Family Courts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 571-22, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) If, incident to a hearing at which the person’s prior court record under section 571-11(1) is established, the court determines that a minor of at least the age of sixteen has been charged with an act which would constitute murder in the first degree or attempted murder in the first degree, murder in the second degree or attempted murder in the second degree, or a class A felony if committed by an adult and that the person is not committable to an institution for the mentally defective or retarded or the mentally ill, the court shall waive jurisdiction and order the minor held for criminal proceedings, if such minor has been previously determined by a court to be a law violator by:

- (1) Committing any act involving force or violence or the threat of force or violence and which is prohibited by law as being murder in the first degree, attempted murder in the first degree, murder in the second degree, attempted murder in the second degree, or a class A felony; or
- (2) Committing two or more acts within the two years preceding the date of the offense for which the person is presently charged which are each prohibited by law as being<sup>1</sup> felony.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

### Note

1. Prior to amendment, “a” appeared here.

## ACT 183

A Bill for an Act Relating to Art in State Buildings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 103-8, Hawaii Revised Statutes, is amended to read as follows:

“§103-8 Art in state buildings. All appropriations for the original construction of any state building shall include, as a nondeductible item, an amount of one per cent of the appropriation for the acquisition of works of art which may be an integral part of the structure, attached to the structure, detached within or outside of the structure, or can be exhibited in other public facilities. If the amount shall not be required in toto or in part for any project, the unrequired amounts may be accumulated and expended for other projects or may be used to defray costs of transportation and upkeep of works of art for exhibition in public facilities.

All state agencies and departments expending an appropriation for the original construction of any state building shall be responsible for informing the state foundation on culture and the arts of the amount of the appropriation set aside for the acquisition of works of art and the amount actually expended in each fiscal year, under rules adopted by the state foundation on culture and the arts.

The comptroller shall, in consultation with the state foundation on culture and the arts, determine the amount to be made available for the purchase of works of art for each project, and payments therefor shall be made, after acceptance, in accordance with law.

The selection of, commissioning of artist for, reviewing of design, execution, and placement of, and the acceptance of works of art including student art work pursuant to section 9-4 shall be the responsibility of the comptroller and the state foundation on culture and the arts.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 184

A Bill for an Act Relating to Collective Bargaining.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 89-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No elected or appointed official, member of any board or commission, representative of a public employer, including the administrative officer, director, or chief of a state or county department or agency, or any major division thereof, as well as [his] any first deputy, first assistant, legal counsel, and [any] other top-level managerial and administrative personnel, individual concerned with confidential matters affecting employee-employer relations, part time employee working less than twenty hours per week, temporary employee of three months duration or less, employee of the executive office of the governor, household employee at Washington Place, employee of the executive office of the mayor, staff of the legislative branch

## ACT 185

of the State, employee of the executive office of the lieutenant governor, inmate, kokua, patient, ward or student of a state institution, student help, any commissioned and enlisted personnel of the Hawaii national guard, or staff of the legislative branch of the city and county of Honolulu and counties of Hawaii, Maui, and Kauai, except employees of the clerks' offices of said city and county and counties, shall be included in any appropriate bargaining unit or entitled to coverage under this chapter."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 185

H.B. NO. 374

A Bill for an Act Relating to the Office of Environmental Quality Control.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 341-4, Hawaii Revised Statutes, is amended to read as follows:

**"§341-4 Powers and duties of the director.** (a) The director shall have such powers delegated by the governor as are necessary to coordinate and, when requested by the governor, to direct pursuant to chapter 91 all state governmental agencies in matters concerning environmental quality.

(b) To further the objective of subsection (a), the director shall:

- (1) Direct the attention of the university community and the residents of the State in general to ecological and environmental problems through the center and the council, respectively, and through public education programs[.];
- (2) Conduct research or arrange for the conduct of research through contractual relations with the center, state agencies, or other persons with competence in the field of ecology and environmental quality[.];
- (3) Encourage public acceptance of proposed legislative and administrative actions concerning ecology and environmental quality, and receive notice of any private or public complaints concerning ecology and environmental quality through the council[.];
- (4) Recommend programs for long-range implementation of environmental quality control[.];
- (5) Submit direct to the governor and to the legislature such legislative bills and administrative policies, objectives, and actions, as are necessary to preserve and enhance the environmental quality of the State[.];
- (6) Conduct public educational programs[.]; and
- (7) Offer advice and assistance to private industry, governmental agencies, or other persons upon request.

(c) The director shall adopt rules pursuant to chapter 91 necessary for the purposes of implementing this chapter and chapter 343D."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.



## SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 186

H.B. NO. 378

## A Bill for an Act Relating to Environmentally-Related Human Illness and Injury.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that clear governmental authority to monitor human illness and injuries caused by pesticides, lead, and other potentially toxic substances through surveillance is an essential prerequisite to preventing human illness and injury. In order to ensure that the reporting of environmentally-related illness and injury is timely and complete, health care professionals should be required to report such incidents to the department of health. The purpose of this Act is to require health care professionals to report all cases of environmentally-related human illness or injury determined by the director to present a threat to public health to the department of health so that preventive measures can be more effectively implemented and evaluated.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . ENVIRONMENTALLY-RELATED  
ILLNESS AND INJURY**

**§321- Environmentally-related illness and injury surveillance.** The department of health shall maintain, as it deems advisable and within available resources, an environmentally-related human illness and injury surveillance system for conditions determined by the director to present a threat to public health in order to ascertain the incidence, distribution, and other epidemiological characteristics of these illnesses and injuries.

**§321- Definition of environmentally-related illness or injury.** Environmentally-related human illnesses or injuries are those designated acute or chronic adverse health effects associated with exposure to pesticides, lead, or other toxic substances determined by the director to present a threat to public health.

**§321- Definition of health care professional.** A health care professional means a physician as licensed under chapter 453 and an osteopath as licensed under chapter 460.

**§321- Reports to the department.** Any health care professional who has the primary responsibility for the treatment of an individual who is suffering from environmentally-related illness or injury shall report the occurrence or suspected occurrence of such illness or injury to the department in writing or in the manner specified by the director of health. Every laboratory director having laboratory data regarding an individual affected by or suspected to be affected by a toxic substance determined by the director of health to present a threat to public health shall report such data to the department of health in a manner specified by the director. Forms for the reporting of environmentally-related illness or injury shall be provided by the department.

## ACT 187

**§321- Confidentiality.** Reports provided to the department under this section shall not be made public to protect the identity of the persons diagnosed to be suffering from an environmentally-related illness or injury; provided that statistical information collected under this part shall be public information.

**§321- Immunity from liability.** Any health care professional or laboratory director who complies with this part shall not be held civilly or criminally liable for providing the information required under this part.

**§321- Rules.** The director of health shall adopt rules necessary for the purposes of this part pursuant to chapter 91. The rules shall include the director's determination of the penalties to be assessed for any failure of a health care professional or laboratory director to comply with the reporting requirements established under this part."

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 187

H.B. NO. 379

A Bill for an Act Relating to Environmental Quality.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 343-2, Hawaii Revised Statutes, is amended by amending the definition of "environmental impact statement" or "statement" to read as follows:

"“Environmental impact statement” or “statement” means an informational document prepared in compliance with the rules adopted under section 343-6 and which discloses the environmental effects of a proposed action, effects of a proposed action on the economic and social welfare of the community and State, effects of the economic activities arising out of the proposed action, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects.

The initial statement filed for public review shall be referred to as the draft statement and shall be distinguished from the final statement which is the document that has incorporated the public's comments and the responses to those comments. The final statement is the document that shall be evaluated for acceptability by the respective accepting authority.”

SECTION 2. Section 343-5, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

“(a) Except as otherwise provided, an environmental assessment shall be required for actions which:

- (1) Propose the use of state or county lands or the use of state or county funds, other than funds to be used for feasibility or planning studies for possible future programs or projects which the agency has not approved, adopted, or funded, or funds to be used for the acquisition of unimproved real property; provided that the agency shall consider environmental factors and available alternatives in its feasibility or planning studies[.];
- (2) Propose any use within any land classified as conservation district by the state land use commission under chapter 205[.];

- (3) Propose any use within the shoreline area as defined in section [205-31.] 205A-41;
- (4) Propose any use within any historic site as designated in the National Register or Hawaii Register as provided for in the Historic Preservation Act of 1966, Public Law 89-665, or chapter 6E[.];
- (5) [Propose any use within the Waikiki-Diamond Head area of Oahu, the boundaries of which are delineated on the development plan for the Kalia, Waikiki, and Diamond Head areas (map designated as portion of 1967 city and county of Honolulu General Plan Development Plan Waikiki-Diamond Head Section A).] Propose any use within the Waikiki area of Oahu, the boundaries of which are delineated in the land use ordinance as amended, establishing the "Waikiki Special District";
- (6) Propose any amendments to existing county general plans where such amendment would result in designations other than agriculture, conservation, or preservation, except actions proposing any new county general plan or amendments to any existing county general plan initiated by a county[.]; and
- (7) Propose any reclassification of any land classified as conservation district by the state land use commission under chapter 205.

(b) Whenever an agency proposes an action [which falls within the categories] in subsection (a), other than feasibility or planning studies for possible future programs or projects which the agency has not approved, adopted, or funded, or other than the use of state or county funds for the acquisition of unimproved real property, which is not a specific type of action declared exempt under section 343-6, that agency shall prepare an environmental assessment for such action at the earliest practicable time to determine whether an environmental impact statement shall be required. A statement shall be required if the agency finds that the proposed action may have a significant effect on the environment. The agency shall file notice of such determination with the office which, in turn, shall publish the agency determination for the public's information pursuant to section 343-3. The [statement] draft and final statements, if required, shall be prepared by the agency[,] and submitted to the office[, and]. The draft statement shall be made available for public review and comment through the office[,] for a period of forty-five days. The office shall inform the public of the availability of the draft statement for public review and comments pursuant to section 343-3. The agency shall respond in writing to comments received during the review[.] and prepare a final statement. [Following this review by the public and any subsequent revision by the agency, the] The council, when requested by the agency, may make a recommendation as to the acceptability of the final statement. The final authority to accept [such] a final statement shall rest with:

- (1) The governor, or the governor's authorized representative, whenever an action proposes the use of state lands or the use of state funds or, whenever a state agency proposes an action within the categories in subsection (a); or
- (2) The mayor, or the mayor's authorized representative, of the respective county whenever an action proposes only the use of county lands or county funds.

Acceptance of a required final statement shall be a condition precedent to implementation of the proposed action. Upon acceptance or nonacceptance of the final statement, the governor or mayor, or the governor's or mayor's authorized representative, shall file notice of such determination

with the office. The office, in turn, shall publish the determination of acceptance or nonacceptance pursuant to section 343-3.

(c) Whenever an applicant proposes an action specified by subsection (a) which requires approval of an agency, and which is not a specific type of action declared exempt under section 343-6, the agency receiving the request for approval shall prepare an environmental assessment of such proposed action at the earliest practicable time to determine whether an environmental impact statement shall be required. A statement shall be required if the agency finds that the proposed action may have a significant effect on the environment. The agency shall file notice of such determination with the office which, in turn, shall publish the agency determination for the public's information pursuant to section 343-3. The [statement] draft and final statements, if required, shall be prepared by the applicant, who shall file [the statement] these statements with the office. The draft statement shall be made available for public review and comments through the office~~]~~ for a period of forty-five days. The office shall inform the public of the availability of the draft statement for public review and comments pursuant to section 343-3. The applicant shall respond in writing to comments received during the review[.] and prepare a final statement. [Following the review by the public and any subsequent revision by the applicant, the] The council, when requested by the applicant or agency, may make a recommendation as to the acceptability of the final statement. The authority to accept [such] a final statement shall rest with the agency receiving the request for approval. Acceptance of a required final statement shall be a condition precedent to approval of the request and commencement of proposed action. Upon acceptance or nonacceptance of the final statement, the agency shall file notice of such determination with the office. The office, in turn, shall publish the determination of acceptance or nonacceptance of the final statement pursuant to section 343-3. The agency receiving the request, within [sixty] thirty days of receipt of the final statement, shall notify the applicant and the office of the acceptance or nonacceptance of the final statement. The final statement shall be deemed to be accepted if the agency fails to accept or not accept the final statement within [sixty] thirty days after receipt of the final statement; provided that the [sixty-day] thirty-day period may be extended at the request of the applicant for a period not to exceed [thirty] fifteen days.

In any acceptance or nonacceptance, the agency shall provide the applicant with the specific findings and reasons for its determination. An applicant, within sixty days after nonacceptance of a final statement by an agency, may appeal the nonacceptance to the environmental council, which, within thirty days of receipt of the appeal, shall notify the applicant of the council's determination. In any affirmation or reversal of an appealed nonacceptance, the council shall provide the applicant and agency with specific findings and reasons for its determination. The agency shall abide by the council's decision."

SECTION 3. Section 343-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) After consultation with the affected agencies, the council shall adopt, amend, or repeal necessary rules for the purposes of this chapter in accordance with chapter 91 including, but not limited to, rules which shall:

- (1) Prescribe the contents of an environmental impact statement;
- (2) Prescribe the procedures whereby a group of proposed actions may be treated by a single statement;
- (3) Prescribe procedures for the preparation and contents of an environmental assessment;

- [(3)] (4) Prescribe procedures for the submission, distribution, review, [and] acceptance or nonacceptance, and withdrawal of a statement;
- [(4)] (5) Prescribe procedures [for the applicant] to appeal the nonacceptance of a statement to the environmental council;
- [(5)] (6) Establish criteria to determine whether a statement is acceptable or not;
- [(6)] (7) Establish procedures whereby specific types of actions, because they will probably have minimal or no significant effects on the environment, are declared exempt from the preparation of an assessment;
- [(7)] (8) Prescribe procedures for informing the public of determinations that a statement is either required or not required, for informing the public of the availability of draft statements for review and comments, and for informing the public of the acceptance or nonacceptance of the final statement; and
- [(8)] (9) Prescribe the contents of an environmental assessment.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 188

H.B. NO. 413

A Bill for an Act Relating to Pharmacy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 461-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Practice of pharmacy” means the interpretation and evaluation of prescription orders; the compounding, dispensing, and labeling of drugs and devices (except labeling by a manufacturer, packer, or distributor of non-prescription drugs and commercially legend drugs and devices); the participation in drug selection and drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records therefor; the responsibility for advising when necessary or where regulated, of therapeutic values, content, hazards, and use of drugs and devices; performing the following procedures or functions in a licensed acute care hospital in accordance with policies, procedures, or protocols developed by health professionals, including physicians and surgeons, pharmacists, and registered nurses, with the concurrence of the facility administrator: ordering or performing routine drug therapy related patient assessment procedures including temperature, pulse, and respiration; ordering drug therapy related laboratory tests; administering drugs and biologicals by injection pursuant to a licensed medical doctor’s order; and adjusting the dosage of a patient’s drug regimen pursuant to a licensed medical doctor’s order or authorization; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy. Licensed acute care hospital means an acute care hospital licensed by the department of health pursuant to chapter 321. Licensed

**ACT 189**

medical doctor means a medical doctor licensed by the board of medical examiners pursuant to chapter 453."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

**ACT 189**

H.B. NO. 463

A Bill for an Act Relating to Special Purpose Revenue Bonds for G.N. Wilcox Memorial Hospital.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

SECTION 2. Pursuant to part II, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$15,000,000, in one or more series for the purpose of assisting G.N. Wilcox Memorial hospital or G.N. Wilcox Health Center Properties in financing an expansion and renovation project which includes a 110-bed long-term care unit, consolidation and modernization of utility building, expansion and modernization of a kitchen and cafeteria, and remodeling of same day surgery and diagnostic imaging services area. The legislature finds and determines that the activity and facilities of G.N. Wilcox Memorial hospital constitutes a project as defined in part II, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to a health care facility.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to part II, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist health care facilities.

SECTION 4. The department of budget and finance is further authorized to issue from time to time refunding special purpose revenue bonds authorized in such principal amounts as the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

**ACT 190**

H.B. NO. 492

A Bill for an Act Relating to Massage.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- [ (3) Chapter 452 (Board of Massage)
- (4) (3) Chapter 471 (Board of Veterinary Examiners)
- [ (5) (4) Chapter 441 (Cemeteries and Mortuaries)
- [ (6) (5) Chapter 463 (Board of Detectives and Guards)
- [ (7) (6) Chapter 455 (Board of Examiners in Naturopathy)

(b) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 468K (Travel Agencies)
- (4) Chapter 373 (Commercial Employment Agencies)
- (5) Chapter 442 (Board of Chiropractic Examiners)
- (6) Chapter 448 (Board of Dental Examiners)
- (7) Chapter 436E (Board of Acupuncture)

(c) The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 439 (Board of Cosmetology)
- (7) Chapter 454 (Mortgage Brokers and Solicitors)
- (8) Chapter 454D (Mortgage and Collection Servicing Agents)

(d) The following chapters are hereby repealed effective December 31, 1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 462A (Pilotage)
- (6) Chapter 438 (Board of Barbers)

(e) The following chapters are hereby repealed effective December 31, 1991:

- (1) Chapter 448H (Elevator Mechanics Licensing Board)
- (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (4) Chapter 460 (Board of Osteopathic Examiners)
- (5) Chapter 461 (Board of Pharmacy)
- (6) Chapter 461J (Board of Physical Therapy)
- (7) Chapter 463E (Podiatry)

(f) The following chapters are hereby repealed effective December 31, 1992:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)[.]

(g) The following chapter is hereby repealed effective December 31, 1993:

- (1) Chapter 452 (Board of Massage).”

## ACT 190

SECTION 2. Section 452-1, Hawaii Revised Statutes, is amended by amending the definition of "out-call massage service" to read:

"“Out-call massage service” means any business[, the primary function of] which [is to engage] engages in or [carry] carries on the practice of massage, not at a fixed location but at a location designated by the customer, client, or service.”

SECTION 3. Section 452-3, Hawaii Revised Statutes, is amended to read as follows:

**“§452-3 Massage establishments and out-call massage services to be licensed.** No massage establishment or out-call massage service shall be operated unless [the same] it has been duly licensed as provided for in this chapter[.]; provided that a licensed massage therapist who does not operate a business employing other persons is exempt from the requirement for an out-call service license, unless that therapist is affiliated with a business providing massage as an adjunct service.”

SECTION 4. Section 452-4, Hawaii Revised Statutes, is amended to read as follows:

**“§452-4 Creation of state board[.]; qualifications.** (a) There is established within the department of commerce and consumer affairs for administrative purposes a state board of massage consisting of five members appointed by the governor as provided in section 26-34.

(b) Three members shall have at least three years of practical experience as licensed massage therapists, who shall be actively employed as massage therapists, and two shall be public members.

(c) Board members affiliated with any school teaching massage shall disclose that affiliation and shall at all times adhere to the provisions of chapter 84 and the interpretations of that chapter by the state ethics commission.”

SECTION 5. Section 452-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The executive secretary of the board shall determine the sufficiency of the preliminary qualifications of applicants for admission to examination and licensing.

- (1) A nonrefundable application fee shall be paid to the board at the time of the application.
- (2) The examination fee shall be refunded only if the applicant is found not qualified to take the license examination.
- (3) An applicant for examination shall have completed academic training in anatomy, physiology, and the theory and demonstration of massage which is not confined to any specific system or method of massage, spent at least six months as a massage therapist apprentice, and [have] met all other requirements set for apprentices by the board pursuant to section 452-6(c).”

SECTION 6. Section 452-14, Hawaii Revised Statutes, is amended to read as follows:

**“§452-14 Examination.** The department of commerce and consumer affairs or the board may contract with professional testing services to prepare, administer, and grade the examinations [and tests] for applicants as may be required for the purposes of this chapter. The examination of applicants for [licenses] a license to practice massage shall be conducted



under rules prescribed by the board and shall include both practical demonstrations and a written [or oral tests and shall] examination which is not [be] confined to any specific system or method[,] and [the examination shall be] which is consistent with the practical and theoretical requirements of the occupation as provided by this chapter.

[Any law to the contrary notwithstanding, the department of commerce and consumer affairs, or the board, may contract with professional testing services to prepare, administer, and grade examinations and tests for license applicants under this chapter. For these purposes, the department of commerce and consumer affairs or the board may require applicants to pay the examination fee directly to the testing agency.]”

SECTION 7. The board of massage shall submit a proposal to the legislature twenty days prior to the convening of the Regular Session of 1988 on standards of competency for the practical examination required under section 452-14, Hawaii Revised Statutes.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 191

H.B. NO. 518

A Bill for an Act Relating to Collection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### “CHAPTER COLLECTION AGENCIES

§ -1 Definitions. As used in this chapter:

“Collection agency” means any person, whether located within or outside this State, who by oneself or through others offers to undertake or holds oneself out as being able to undertake or does undertake to collect for another person, claims or money due on accounts or other forms of indebtedness for a commission, fixed fee, or a portion of the sums so collected.

“Collection agency” includes:

- (1) Any person using any name other than the person’s own in collecting the person’s own claims with the intention of conveying, or which tends to convey the impression that a third party has been employed;
- (2) Any person who, in the conduct of the person’s business for a fee, regularly repossesses any merchandise or chattels for another; and
- (3) Any person who regularly accepts the assignment of claims or money due on accounts or other forms of indebtedness and brings suits upon the assigned claims or money due on accounts or other forms of indebtedness in the person’s own name; provided that any suits shall be initiated and prosecuted by an

attorney who shall have been appointed by the assignee; provided further that any person who by oneself or through others offers to undertake or holds oneself out as being able to undertake or does undertake to collect for another person the amounts due under any agreement which provides for installment payments and which is secured by an interest in real property, including without limitation, mortgage loans and agreements of sale, whether or not the collection servicing agent receives any compensation or other consideration for one's services, shall fall within the purview of chapter 454D.

"Collection agency" does not include licensed attorneys at law or district court practitioners acting within the scope of their profession, licensed real estate brokers, and salesmen residing in this State when engaged in the regular practice of their profession, nor banks, trust companies, building and loan associations, savings and loan associations, industrial loan companies, credit unions, companies doing an escrow business, individuals regularly employed on a regular wage or salary in the capacity of credit men or in other similar capacity for a single employer who is not a collection agency, nor any person doing business subject to public supervision and regulation, nor any public officer or any person acting under an order of court.

"Department" means the department of commerce and consumer affairs.

"Director" means the director of commerce and consumer affairs.

"Person" includes an individual, partnership, joint venture, corporation, association, business, trust, or any organized group of persons, or any combination thereof.

"Principal collector" means an individual who has been designated by a collection agency to assume responsibility for the operations and activities of the agency's office in this State.

§ -2 **Powers and duties of the director.** In addition to any other duties and powers granted by this chapter the director shall adopt, amend, or repeal rules as the director deems proper to fully effectuate this chapter.

§ -3 **Registration required.** (a) No collection agency shall collect or attempt to collect any money alleged to be due and owing from any person who resides or does business in this State without first registering under this chapter.

(b) Any collection agency who has filed a bond with the director and maintained that bond in full force and effect shall be registered under this chapter subject to:

- (1) Meeting all the requirements of this chapter;
- (2) Submitting an application to the director within ninety days of the effective date of this chapter; and
- (3) Paying the registration fee.

Any collection agency who has not filed an application and paid the registration fee within ninety days of the effective date of this chapter shall submit an application in the same manner as a new applicant subject to the provisions of sections -4 and -7.

§ -4 **Application for registration.** The director shall prescribe the form of the application for registration. Each application shall be accompanied by the appropriate fees and the bond or bonds required by section -5.

**§ -5 Bond.** (a) Each collection agency shall file and maintain with the director a bond in the penal sum of \$25,000 for the first office and \$15,000 for each additional office.

(b) All bonds required by this section shall be issued by a surety company authorized to do business in the State, and shall run to the State. The bond shall be conditioned that the collection agency faithfully, promptly, and truly shall account and pay within thirty days after the calendar month, to its clients the net proceeds due on all collections made during the calendar month. The bond shall be conditioned further that the collection agency will comply with all requirements of this chapter or any other statute now in force or hereafter enacted with respect to the duties, conduct, obligations, and liabilities of collection agencies.

(c) In addition to any other remedy, the director or any person claiming to have sustained damage by reason of any breach of the conditions of the bond may bring action on the bond for the recovery of any damages sustained therefrom. The liability of the surety shall not exceed the amount of the bond issued to the collection agency for which the bond was issued.

(d) The bond shall be continuous in form and remain in full force and effect unless terminated or canceled by the surety. Termination or cancellation shall not be effective, unless notice thereof is delivered by the surety to the director and the collection agency at least sixty days prior to the date of termination or cancellation.

(e) Failure, refusal, or neglect of a collection agency to maintain in full force and effect a bond as required by this section shall cause the automatic suspension of the registration of the collection agency effective as of the date of expiration, termination, or cancellation of the bond. The director shall not reinstate the affected registration until satisfactory proof of bond coverage is submitted to the director as required by this section. Failure to effect a reinstatement of a suspended registration within sixty days of the expiration of the requirements of registration shall cause it to be terminated, thereby forfeiting all registration and biennial renewal fees. A collection agency, within fifteen days after receipt of the notification of the registration termination, may request an administrative hearing to review the termination pursuant to chapter 91.

(f) Upon expiration, termination, or cancellation of the bond, the collection agency shall cease to do business as a collection agency in this State and the collection agency shall not resume business in this State until a bond as required in subsection (a) is submitted to the director.

**§ -6 Place of business; principal collector.** (a) A collection agency shall have and maintain a regular active business office in the State for the purpose of conducting collection agency business. The business office shall be open to the public during stated reasonable business hours.

(b) Every collection agency shall designate a principal collector to assume responsibility for the direct management and control of the daily operation of the office.

**§ -7 Fees; biennial renewal; restoration.** (a) The fees for collection agencies shall be as follows:

- (1) Application fee.....\$25
- (2) Registration fee:
  - (A) First year of biennium (original registration fee, plus one-half of the biennial renewal fee) .....\$80
  - (B) Second year of biennium (original registration fee).....\$40
- (3) Renewal fee.....\$80

**ACT 191**

- (4) Restoration fee.....\$80
- (5) Duplicate identification card.....\$ 5
- (6) Duplicate certificate fee.....\$ 5
- (7) Compliance resolution fund:
  - (A) Compliance resolution fund fee.....\$10
  - (B) Annual compliance resolution fund fee.....\$10
  - (C) Biennial compliance resolution fund fee.....\$20

(b) Every collection agency registered under this chapter shall pay a renewal fee on or before June 30 of each even-numbered year. Failure, neglect, or refusal to pay the renewal fee shall constitute a forfeiture of the registration as of the date of expiration. Any registration so forfeited may be restored upon filing of an application and payment of any delinquent renewal fees and a restoration fee.

**§ -8 Manner in which records and funds are to be kept by collection agencies.** (a) Every collection agency shall keep a permanent record of all sums collected by it, and of all disbursements, and shall maintain and keep the records and all customers' funds within the State. No person wilfully shall make any false entry in any collection agency record, or intentionally mutilate, destroy, conceal, or in any way dispose of any record.

(b) A collection agency shall not commingle the money of its clients with its own, but shall maintain a separate trust account for clients' funds.

**§ -9 Fees.** A collection agency shall not collect, or attempt to collect, any collection fee or attorney's fee or commission from any debtor; provided that an attorney's fee or commission may be collected after filing of a suit against any debtor and the fee or commission shall not be in excess of twenty-five per cent of the unpaid principal balance. All attorney's fees or commissions collected by a collection agency shall be remitted to the attorney and no portion of the collection shall be retained by the collection agency.

**§ -10 Reports and payments by agency.** Every collection agency shall, within thirty days after the close of each calendar month, report and pay to its clients the net amount due to each client out of all collections made during the preceding calendar month.

**§ -11 Action on collection agency bond.** If a collection agency has failed to account for and pay over the proceeds of any collection made, the client shall have, in addition to all other legal remedies, a right of action in the client's own name on the bond given pursuant to this chapter and the total of all recoveries from the sureties shall not exceed the face of the bond. Upon entering judgment for plaintiff in any action on the bond required by this chapter, for more than any sum which may have been tendered in court by the defendant, the court shall include in the judgment reasonable compensation for the services of plaintiff's attorney in the action.

**§ -12 Remedies not exclusive.** The remedies provided for in this chapter are in addition to and not exclusive of any other remedies provided by law.

**§ -13 Jurisdiction of courts.** The various district courts of the State shall have concurrent jurisdiction with the circuit courts in all criminal prosecutions for violations of this chapter.

**§ -14 Penalties.** (a) Violation of this chapter by an individual is punishable by a fine of not more than \$500.

(b) Violation of this chapter by persons other than an individual is punishable by a fine of not more than \$1,000. Any officer, agent, or employee of a collection agency who personally participates in any violation of this chapter by the collection agency is subject to penalties prescribed in subsection (a) of this section.

§ **-15 Threats or coercion.** No collection agency shall collect or attempt to collect any money alleged to be due and owing by means of any threat, coercion, or attempt to coerce, including any conduct which is described as follows:

- (1) The use, or express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person;
- (2) The accusation or threat to falsely accuse any person of fraud or any crime or any conduct which, if true, would tend to disgrace the other person or in any way subject a person to ridicule or any conduct which, if true, would tend to disgrace the other person or in any way subject a person to the ridicule or contempt of society;
- (3) False accusations made to another person, including any credit reporting agency that a debtor or an alleged debtor has not paid a just debt, or threat to so make false accusations;
- (4) The threat to sell or assign to another the obligation of a debtor or an alleged debtor with an attending representation or implication that the result of the sale or assignment would be that the debtor or alleged debtor would lose any defense to the claim or would be subjected to harsh, vindictive, or abusive collection attempts; and
- (5) The threat that nonpayment of an alleged claim will result in the arrest of any person.

§ **-16 Harassment and abuse.** No collection agency shall oppress, harass, or abuse any person in connection with the collection of or attempt to collect any claim alleged to be due and owing by that person or another in any of the following ways:

- (1) The use of profane or obscene language that is intended to abuse the hearer or reader;
- (2) The placement of telephone calls without disclosure of the caller's identity or with the intent to harass, or threaten any person at the called number; and
- (3) Causing expense to any person in the form of long distance telephone tolls, telegram fees, or other charge incurred by a medium of communication, by concealment of the true purpose of the notice, letter, message, or communication.

§ **-17 Unreasonable publication.** No collection agency shall unreasonably publicize information relating to any alleged indebtedness or debtor, in any of the following ways:

- (1) The disclosure, publication, or communication of any false information relating to the indebtedness of a debtor or alleged debtor to any employer or the employer's agent;
- (2) The disclosure, publication, or communication of false information relating to the indebtedness of a debtor or alleged debtor to any relative or family member of the debtor or alleged debtor;
- (3) The disclosure, publication, or communication of any information by a collection agency relating to the indebtedness of a

debtor or alleged debtor by publishing or posting any list of debtors, except for the publication of "stop lists" to point-of-sale locations where credit is extended, or by advertising for sale any claim to enforce payment thereof or in any other manner other than through proper legal action, process, or proceeding; and

- (4) The use of any form of communication by a collection agency to the debtor or alleged debtor, which ordinarily may be seen by any other person, that displays or conveys any information about the alleged claim other than the name, address, and phone number of the collection agency.

§ -18 **Fraudulent, deceptive, or misleading representations.** No collection agency shall use any fraudulent, deceptive, or misleading representation or means to collect, or attempt to collect, claims or to obtain information concerning a debtor or alleged debtor, including any conduct which is described as follows:

- (1) The use of any company name while engaged in the collection of claims other than the true name of the collection agency;
- (2) The failure to disclose clearly in all written communication made to collect, or attempt to collect, a claim or to obtain, or attempt to obtain, information about a debtor or alleged debtor that the collection agency is attempting to collect a claim and that any information obtained will be used for that purpose;
- (3) Any false representation that the collection agency has in its possession information or something of value for the debtor or alleged debtor that is made to solicit or discover information about the debtor or alleged debtor;
- (4) The failure to disclose clearly the name and full business address of the person to whom the claim has been assigned for collection or to whom the claim is owed at the time of making any demand for money;
- (5) Any false representation or implication of the character, extent, or amount of a claim against a debtor or alleged debtor, or of its status in any legal proceeding;
- (6) Any false representation or false impression that any collection agency is vouched for, bonded by, affiliated with, or an instrumentality, agent, or official of, this State or any agency of federal, state, or local government;
- (7) The use or distribution or sale of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by a court, an official, or any other legally constituted or authorized authority, or which creates a false impression about its source, authorization, or approval;
- (8) Any representation that an existing obligation of the debtor or alleged debtor may be increased by the addition of attorney's fees, investigation fees, service fees, and any other fees or charges when in fact the fees or charges may not legally be added to the existing obligations; or
- (9) Any false representation or false impression about the status or true nature of, or the services rendered by, the collection agency or its business.

§ -19 **Unfair or unconscionable means.** No collection agency shall use unfair or unconscionable means to collect or attempt to collect any claim in any of the following ways:

- (1) The seeking or obtaining of any written statement or acknowledgment in any form that a debtor or alleged debtor's obligation is one incurred for necessities of life where the original obligation was not in fact incurred for these necessities;
- (2) The seeking or obtaining of any written statement or acknowledgment in any form containing an affirmation of any obligation by a debtor or alleged debtor who has been declared bankrupt, without clearly disclosing the nature and consequences of the affirmation and the fact that the debtor or alleged debtor is not legally obligated to make the affirmation;
- (3) The collection of or the attempt to collect from a debtor or alleged debtor all or any part of the collection agency's fees or charges for services rendered;
- (4) The collection of or the attempt to collect any interest or other charge, fee, or expense incidental to the principal obligation unless the interest or incidental fee, charge, or expense is expressly authorized by the agreement creating the obligation and legally chargeable to the debtor or alleged debtor; or unless the interest or incidental fee, charge, or expense is expressly authorized by law; and
- (5) Any communication with a debtor or alleged debtor whenever it appears that the debtor or alleged debtor is represented by an attorney and the attorney's name and address are known.

§ -20 **Unfair competition, unfair or deceptive acts or practices.** A violation of this chapter by a collection agency shall constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce for the purpose of section 480-2."

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## "CHAPTER COLLECTION PRACTICES

§ -1 **Scope and purpose.** This chapter is intended to ensure that consumers are not subjected to unfair, deceptive, coercive, abusive, or harassing conduct in collection activities that are covered by this chapter. This chapter is intended to cover collection activities by debt collectors in collecting consumer debts.

§ -2 **Definitions.** As used in this chapter:

"Consumer debt" means any debt of a natural person incurred primarily for personal, family, or household purposes. "Debt" means any obligation or alleged obligation of a person to pay money arising out of any transaction, whether or not the obligation has been reduced to judgment.

"Debt collector" means any person, who is not a collection agency, and who in the regular course of business collects or attempts to collect consumer debts owed or due or asserted to be owed or due to the collector.

"Person" means an individual, partnership, joint venture, corporation, association, business, trust, or any organized group of persons, or any combination thereof.

§ -3 **Prohibited practices.** It shall be a prohibited practice for any debt collector to engage in any of the following practices while collecting a consumer debt:

## ACT 191

- (1) To threaten the use of violence or other criminal means to cause harm to the physical person, reputation, or property of any person;
- (2) To falsely accuse or threaten to falsely accuse any person of fraud or any other criminal conduct;
- (3) To make false accusations or threaten to make false accusations, to another person, including any credit reporting agency, that a debt has not been paid;
- (4) To threaten that nonpayment of a debt will result in the arrest of any person;
- (5) To threaten to turn over the collection of the debt to a person who will engage in practices prohibited by this section;
- (6) To threaten to sell or assign the debt with statements that, or implying that, the sale or assignment will cause the debtor to lose a defense or legal right as a result of the sale or assignment;
- (7) To use profane or obscene language that is intended to abuse the hearer or reader;
- (8) To disclose, publish, or communicate any false and material information relating to the indebtedness;
- (9) To represent that an existing obligation may be increased by attorney's fees, investigation fees, service fees, and other fees or charges when in fact the fees or charges may not legally be added to the existing obligations;
- (10) To seek or obtain any statement or acknowledgment that the debt was incurred for necessities of life when in fact the debt was not so incurred; or
- (11) To collect or attempt to collect any interest, charge, fee, or expense incidental to the debt unless the additions are authorized by the agreement or by law.

§ -4 **Enforcement.** (a) Except as provided in subsection (b), any person who engages in any practice prohibited by this chapter shall be deemed to have engaged in an unfair method of competition or unfair and deceptive acts or practices in the conduct of any trade or commerce within the meaning of section 480-2.

(b) In any case involving violations of section -3(3) or (8), the debt collector shall not be subject to the provisions of subsection (a) if the debt collector can prove that the violation resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid such error. Examples of bona fide error include, but are not limited to, clerical miscalculations, computer malfunction, printing errors, and computer programming errors. If bona fide error is proven, the debt collector shall:

- (1) Correct the error as expeditiously as possible and make every reasonable effort to correct any consequences of that error; and
- (2) Be liable for any actual damages suffered by the consumer including the time and expense required to correct the error.

A court may award reasonable attorney's fees and costs incurred by the consumer in insuring that the error and its consequences are corrected.

§ -5 **Remedies not exclusive.** The remedies provided for in this chapter are in addition to and not exclusive of any other remedies provided by law."

SECTION 3. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:



“§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)
- (7) Chapter 455 (Board of Examiners in Naturopathy)

(b) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 468K (Travel Agencies)
- (4) Chapter 373 (Commercial Employment Agencies)
- (5) Chapter 442 (Board of Chiropractic Examiners)
- (6) Chapter 448 (Board of Dental Examiners)
- (7) Chapter 436E (Board of Acupuncture)

(c) The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 439 (Board of Cosmetology)
- (7) Chapter 454 (Mortgage Brokers and Solicitors)
- (8) Chapter 454D (Mortgage and Collection Servicing Agents)

(d) The following chapters are hereby repealed effective December 31, 1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 462A (Pilotage)
- (6) Chapter 438 (Board of Barbers)

(e) The following chapters are hereby repealed effective December 31, 1991:

- (1) Chapter 448H (Elevator Mechanics Licensing Board)
- (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (4) Chapter 460 (Board of Osteopathic Examiners)
- (5) Chapter 461 (Board of Pharmacy)
- (6) Chapter 461J (Board of Physical Therapy)
- (7) Chapter 463E (Podiatry)

(f) The following chapters are hereby repealed effective December 31, 1992:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)[.]

(g) The following chapter is hereby repealed effective December 31, 1993:

- (1) Chapter (Collection Agencies).”

## ACT 192

SECTION 4. Chapter 443A, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 192

H.B. NO. 539

A Bill for an Act Relating to the State Tort Liability Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 662-15, Hawaii Revised Statutes, is amended to read as follows:

**“§662-15 Exceptions.** This chapter shall not apply to:

- (1) Any claim based upon an act or omission of an employee of the State, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state officer or employee, whether or not the discretion involved has been abused;
- (2) Any claim arising in respect of the assessment or collection of any tax, or the detention of any goods or merchandise by law enforcement officers;
- (3) Any claim for which a remedy is provided elsewhere in the laws of the State;
- (4) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;
- (5) Any claim arising out of the combatant activities of the Hawaii national guard and Hawaii state guard during time of war, or during the times the Hawaii national guard is engaged in federal service pursuant to sections 316, 502, 503, 504, [or] 505, or 709 of Title 32 of the United States Code;
- (6) Any claim arising in a foreign country; or
- (7) Any claim arising out of the acts or omissions of any boating enforcement officer appointed under section 267-6.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 193

H.B. NO. 681

A Bill for an Act Relating to Community Health Facilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 46-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Neither this section nor any other law, county ordinance, or rule shall prohibit group living in facilities with eight or fewer residents and which are licensed by the State as provided for under section 321-15.6 or in Intermediate Care Facilities for the Mental Retardation<sup>1</sup> (ICF/MR-C) for persons, including the mentally ill, the elderly, the handicapped, the developmentally disabled, or the totally disabled persons, who are not related to the home operator or facility staff; provided that such group living facilities meet all applicable county requirements, not inconsistent with the intent of this subsection and including building height, setback, maximum lot coverage, parking, and floor area requirements. For purposes of this section, “mentally ill person” means a mentally ill person as defined under section 334-1; “elderly person” means an elderly person as defined under section 359-52; “handicapped person” means a handicapped individual as defined under section 515-2; “developmentally disabled person” means a person suffering from developmental disabilities as defined under section 333E-2; [and] “totally disabled person” means a person totally disabled as defined under section 235-1; and “Intermediate Care Facility/Mental Retardation-Community (ICF/MR-C)” is defined as an identifiable unit providing residence and care for eight or fewer mentally retarded individuals. Its primary purpose is the provision of health, social and rehabilitation services to the mentally retarded through an individually designed active treatment program for each resident. No person who is predominately confined to bed shall be admitted as a resident of such a facility.”

SECTION 2. The department of health shall prepare a plan addressing the community impact of licensed community health facilities involving group living by eight or fewer residents in community facilities licensed by the State as provided for under Section 321-15.6 or in a Intermediate Care Facility/Mental Retardation-Community (ICF/MR-C). The plan shall include but not be limited to:

- (1) Strategies to distribute or disburse such community facilities throughout the State in ways which do not impact unfairly on one geographical area;
- (2) Case management, monitoring and individual care plans for all facility residents;
- (3) Mechanisms to resolve complaints and conflicts with communities in which they are or may be located.

SECTION 3. The department of health shall not approve the issuance of any permits, certificates, or licenses for new community health facilities involving group living by eight or fewer residents in community facilities licensed by the State as provided for under Section 321-15.6 or in Intermediate Care Facilities/Mental Retardation-Community (ICF-MR-C)<sup>1</sup> after July 1, 1988, which are not in conformance with the plan.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on its approval.

(Approved June 6, 1987.)

**Note**

1. So in original.

A Bill for an Act Relating to Contracts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 572-22, Hawaii Revised Statutes, is amended to read as follows:

“[[§572-22]] Contracts. A married person may make contracts, oral and written, sealed and unsealed, with [persons other than] her or his spouse, or any other person, in the same manner as if she or he were sole. [Spouses may contract with each other, as follows:

- (1) By deed or assignment to or in favor of the other;
- (2) By agreement settling their respective rights in property owned by them, or either of them, when the agreement is made in contemplation of divorce or judicial separation;
- (3) By] An agreement between spouses providing for periodic payments for the support and maintenance of one spouse by the other, or for the support, maintenance, and education of children of the parties, when the agreement is made in contemplation of divorce or judicial separation[;], is valid provided that the agreement shall be subject to approval by the court in any subsequent proceeding for divorce or judicial separation and that future payments under an approved agreement shall nevertheless be subject to increase, decrease, or termination from time to time upon application and a showing of circumstances justifying a modification thereof[;].
- [(4) By partnership agreements for business purposes;
- (5) As provided in section 560:2-204.] All contracts made between spouses, whenever made, whether before or after the effective date of this Act, and not otherwise invalid because of any other law, shall be valid.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

A Bill for an Act Relating to Environmental Impact Statements.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 343-5, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Whenever an agency proposes an action which falls within the categories in subsection (a), other than feasibility or planning studies for possible future programs or projects which the agency has not approved, adopted, or funded, or other than the use of state or county funds for the acquisition of unimproved real property, which is not a specific type of action declared exempt under section 343-6, that agency shall prepare an environmental assessment for such action at the earliest practicable time to determine whether an environmental impact statement shall be required. A

statement shall be required if the agency finds that the proposed action may have a significant effect on the environment. The agency shall file notice of such determination with the office which, in turn, shall publish the agency determination for the public's information pursuant to section 343-3. The statement shall be prepared by the agency, submitted to the office, and made available for public review and comment through the office. The office shall inform the public of the availability of the statement for public review and comments pursuant to section 343-3. The agency shall respond in writing to comments received during the review. Following this review by the public and any subsequent revision by the agency, the [council,] office, when requested by the agency, may make a recommendation as to the acceptability of the statement. The final authority to accept such a statement shall rest with:

- (1) The governor, or the governor's authorized representative, whenever an action proposes the use of state lands or the use of state funds or, whenever a state agency proposes an action within the categories in subsection (a); or
- (2) The mayor, or the mayor's authorized representative, of the respective county whenever an action proposes only the use of county lands or county funds.

Acceptance of a required statement shall be a condition precedent to implementation of the proposed action. Upon acceptance or nonacceptance of the statement, the governor or mayor, or the governor's or mayor's authorized representative, shall file notice of such determination with the office. The office, in turn, shall publish the determination of acceptance or nonacceptance pursuant to section 343-3.

(c) Whenever an applicant proposes an action specified by subsection (a) which requires approval of an agency, and which is not a specific type of action declared exempt under section 343-6, the agency receiving the request for approval shall prepare an environmental assessment of such proposed action at the earliest practicable time to determine whether an environmental impact statement shall be required. A statement shall be required if the agency finds that the proposed action may have a significant effect on the environment. The agency shall file notice of such determination with the office which, in turn, shall publish the agency determination for the public's information pursuant to section 343-3. The statement shall be prepared by the applicant, who shall file the statement with the office. The statement shall be made available for public review and comments through the office. The office shall inform the public of the availability of the statement for public review and comments pursuant to section 343-3. The applicant shall respond in writing to comments received during the review. Following the review by the public and any subsequent revision by the applicant, the [council,] office, when requested by the applicant or agency, may make a recommendation as to the acceptability of the statement. The authority to accept such statement shall rest with the agency receiving the request for approval. Acceptance of a required statement shall be a condition precedent to approval of the request and commencement of proposed action. Upon acceptance or nonacceptance of the statement, the agency shall file notice of such determination with the office. The office shall publish the determination of acceptance or nonacceptance pursuant to section 343-3. The agency receiving the request, within sixty days of receipt of the statement, shall notify the applicant and the office of the acceptance or nonacceptance of the statement. The statement shall be deemed to be accepted if the agency fails to accept or not accept the statement within sixty days after

## ACT 196

receipt of the statement; provided that the sixty-day period may be extended at the request of the applicant for a period not to exceed thirty days.

In any acceptance or nonacceptance, the agency shall provide the applicant with the specific findings and reasons for its determination. An applicant, within sixty days after nonacceptance of a statement by an agency, may appeal the nonacceptance to the environmental council, which, within thirty days of receipt of the appeal, shall notify the applicant of the council's determination. In any affirmation or reversal of an appealed non-acceptance, the council shall provide the applicant and agency with specific findings and reasons for its determination. The agency shall abide by the council's decision."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 196

H.B. NO. 1073

A Bill for an Act Relating to the Hawaii Insurance Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Legislature finds that there is an apparent scarcity of available pet care insurance in the State of Hawaii and recognizes that there is an apparent need for such insurance.

SECTION 2. The Insurance Commissioner is directed to review the availability of pet care insurance in the State of Hawaii. This review shall include, but not be limited to:

- (1) a review of available pet care insurance programs in the United States;
- (2) a review of the feasibility of such carriers offering policies in the State of Hawaii;
- (3) an assessment of the willingness of Hawaii insurers to provide this form of insurance; and
- (4) appropriate language for legislation to attract insurers to offer these policies in Hawaii, and to require this insurance in Hawaii.

The Commissioner shall report the findings and recommendations of this review to the Legislature at least 20 days prior to the convening of the Regular Session of 1988.

SECTION 3. This Act shall take effect upon approval.

(Approved June 6, 1987.)

## ACT 197

H.B. NO. 1079

A Bill for an Act Relating to Paternity Action.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter<sup>1</sup> 584-7, Hawaii Revised Statutes, is amended to read as follows:

**“§584-7 Statute of limitations.** Except as otherwise provided in section 584-6(a) with respect to a child relinquished for adoption, an action to determine the existence of the father and child relationship as to a child who has no presumed father under section 584-4 shall not be brought later than three years after the birth of the child; provided that an action brought by a child whose paternity has not been determined or an action brought by a personal representative of such a child or the child support enforcement agency, shall not be barred until three years after the child reaches the age of majority; and provided further that if the child is the subject of an adoption proceeding, then the time limitations set out in section 584-6(a)(1) shall apply. Sections 584-6 and 584-7 shall not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

Note

1. So in original.

ACT 198

H.B. NO. 1102

A Bill for an Act Relating to Controlled Substances.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 329-2, Hawaii Revised Statutes, is amended to read as follows:

**“§329-2 Hawaii advisory commission on drug abuse and controlled substances; number; appointment.** There shall be established a state advisory commission on drug abuse and controlled substances [hereinafter called the commission,] consisting of not more than fifteen nor less than nine members appointed by the governor, as provided in section 26-34. The members shall be selected on the basis of their ability to contribute to the solution of problems arising from the abuse of controlled substances, and to the extent possible, shall represent the pharmacological, medical, community and business affairs, youth action, educational, legal defense, enforcement, and corrections segments of the community. The commission shall elect its chairperson. The members shall serve without compensation, but shall be paid their necessary expenses in attending meetings of the commission. The commission shall be a part of the department of health for administrative purposes, as provided for in section 26-35.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

A Bill for an Act Relating to Dams and Reservoirs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## “CHAPTER DAMS AND RESERVOIRS

§ -1 **Short title.** This chapter shall be known and may be cited as the “Hawaii Dam Safety Act of 1987”.

§ -2 **Declaration of purpose.** The purpose of this chapter is to provide for the inspection and regulation of construction, operation, and removal of certain dams in order to protect the health, safety, and welfare of the citizens of the State by reducing the risk of failure of such dams. The legislature finds and declares that the inspection and regulation of construction, operation, and removal of certain dams are properly a matter of regulation under the the police powers of the State.

§ -3 **Definitions.** The following terms, whenever used and referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears in the context:

“Appurtenant works” means any structure, such as spillways, either in the dam or separate therefrom, the reservoir and its rim, low level outlet works, and water conduits, such as tunnels, pipelines, or penstocks, either through the dam or its abutment.

“Board” means the board of land and natural resources.

“Dam” means any artificial barrier, including appurtenant works, which impounds or diverts water, and which:

- (1) Is twenty-five feet or more in height from the natural bed of the stream or watercourse measured at the downstream toe of the barrier, or from the lowest elevation of the outside limit of the barrier if it is not across a stream channel or watercourse to a maximum water storage elevation; or
- (2) Has an impounding capacity at maximum water storage elevation of fifty acre-feet or more. This chapter does not apply to any artificial barrier which is less than six feet in height regardless of storage capacity or which has a storage capacity at maximum water storage elevation less than fifteen acre-feet regardless of height.

“Department” means the department of land and natural resources.

“Owner” means any person who owns, controls, operates, maintains, manages, or proposes to construct a dam or reservoir.

“Person” means any individual, partnership, corporation, company, association, organization, the State and its departments and agencies, and the political subdivisions of the State.

“Reservoir” means any basin which contains or will contain water impounded by a dam.

§ -4 **Liability for damages.** (a) Nothing contained in this chapter shall be construed to constitute a waiver of any immunity of the State and no action or failure to act under this chapter shall be construed to create any



liability in the State, board, department, or its officers or employees, for the recovery of damages caused by such action or failure to act.

(b) Nothing in this chapter and no order, action, or advice of the State, board, department, or any representative thereof, shall be construed to relieve an owner or operator of a dam or reservoir of the legal duties, obligations, or liabilities incident to the ownership or operation of a dam or reservoir; provided that an owner or operator of a dam or reservoir shall not be liable for damages as a result of only natural causes such as earthquakes, hurricanes or extraordinary rains of an average recurrence interval in excess of two hundred fifty years.

**§ -5 Unlawful conduct.** (a) It shall be unlawful for any person to construct, operate, or remove a dam or other artificial barrier covered by this chapter, except in such a manner as to conform to and comply with the provisions of this chapter and with all rules, orders, and permits established under this chapter.

(b) The rules and orders adopted under this chapter shall not apply to the design and construction of dams, reservoirs, and appurtenant works existing on the effective date of this chapter, but the rules and orders shall establish standards consistent with such design and construction for the operation, maintenance, and repair thereof, and those rules and orders then shall be applicable to those dams, reservoirs and appurtenant works which were existing on the effective date of this chapter.

**§ -6 General powers and duties of the board of land and natural resources.** The board of land and natural resources shall administer the dam safety program established by this chapter. In carrying out this chapter, the board shall cooperate with the United States government or any of its agencies, other state agencies, and the county governments or any of their agencies. In the performance of its duties the board shall:

- (1) Establish by rules adopted under chapter 91, such policies, requirements, or standards governing the design, construction, operation, maintenance, enlargement, alteration, repair, removal, and inspection of dams, reservoirs, and appurtenant works for the protection of life and property from structural failure of dams and reservoirs;
- (2) Conduct investigations and the collection of data, including technological advances made in safety practices elsewhere, as may be needed for the proper review and study of the various features of the design, construction, repair, removal, and enlargement of dams, reservoirs, and appurtenant works. The board may require submittal of reports of investigations from all owners;
- (3) Conduct investigations and require reports from all owners to be made from time to time, such as watershed investigations and studies, as may be necessary to keep abreast of developments affecting stream run-off and as required to facilitate its decisions;
- (4) Be authorized to enter upon such private property of the dam or reservoir as may be necessary in making any investigation or inspection required or authorized by this chapter. The entry shall not constitute a cause of action in favor of the owner of the land, except for damages resulting from wilful acts or negligence by the board or its agents;
- (5) Require the owners to apply for, and obtain from the board written approval of plans and specifications on the construction

## ACT 200

- of any new dam or reservoir or the enlargement of any dam or reservoir prior to commencement of any work;
- (6) Require the owners to file an application and secure the written approval of the board before commencing the repair, alteration or removal of a dam or reservoir, including the alteration or removal of a dam so that it no longer constitutes a dam or reservoir as defined in this chapter. Repairs shall not be deemed to apply to routine maintenance not affecting the safety of the structure;
  - (7) Require filing fees by rules to accompany each application as required under the provisions of this chapter.

§ -7 **Administrative and judicial review.** Any person who is aggrieved or adversely affected by an order or action of the board shall be entitled to administrative and judicial review in accordance with chapter 91.

§ -8 **Violations; penalties.** Any person violating any provision of this chapter or any permit condition or limitation established pursuant to this chapter or negligently or wilfully failing or refusing to comply with any final order of the board issued as provided herein, shall be liable for a civil penalty not to exceed \$500 for each day during which said violation continues.

§ -9 **Enactment of rules.** The department shall adopt the necessary rules not later than one and one-half years after the effective date of this chapter."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 200

H.B. NO. 1151

A Bill for an Act Relating to the Authorization of Special Purpose Revenue Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. The department of budget and finance is authorized to issue special purpose revenue bonds in the amount of \$40,000,000 to assist Kapiolani Health Care System, a not-for-profit corporation that provides health care facilities to the general public, to be used for the purpose of financing or refinancing, or both, of the following project: For new construction and renovation and equipment purchase for Kapiolani Medical Center for Women and Children.

The certificate of need application relating to the project is being developed and issuance of the special purpose revenue bonds is contingent on the approval of the certificate of need.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued in one or more issues or series of issues pursuant to one or more project agreements, and shall in all respects be in compliance with Chapter 39A, Part II, Hawaii Revised Statutes, relating to the power to issue

special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

SECTION 4. The department of budget and finance is further authorized to issue from time to time refunding special purpose revenue bonds in such principal amounts as the department shall determine to be necessary to refund the special purpose revenue bonds authorized in Section 2.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 201

H.B. NO. 1173

A Bill for an Act Relating to Dog License.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 143-6, Hawaii Revised Statutes, is amended to read as follows:

“§143-6 **Lost dog tags.** If any license tag is lost or stolen, the person to whom the tag was issued shall be entitled to receive a duplicate thereof by presenting to the director of finance who issued the license the original license and satisfactory proof that the tag was lost or stolen. [The director of finance shall issue a properly numbered duplicate tag, charging therefor the sum of 10 cents.]”

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

## ACT 202

H.B. NO. 1256

A Bill for an Act Relating to the Penal Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 706, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§706- **Definitions of terms in this chapter.** In this chapter, unless a different meaning plainly is required:

- (1) “Day” means a twenty-four (24) hour period of time.
- (2) “Month” means a thirty (30) day period of time.
- (3) “Year” means a three hundred sixty five (365) day period of time.”

SECTION 2. Chapter 706, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§706- **Time of release.** A person imprisoned whose term of imprisonment ends between the hours of 9:00 p.m. to 12:00 midnight, may be released at 9:00 p.m. A person imprisoned whose term of imprisonment ends between the hours of 12:00 midnight to 7:00 a.m. may be released at 9:00 p.m. the day before his scheduled release.”

## ACT 203

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 203

H.B. NO. 1487

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 329-16, Hawaii Revised Statutes, is amended to read as follows:

**"§329-16 Schedule II.** (a) The controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

- (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
- (2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.
- (3) Opium poppy and poppy straw.
- (4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine; cocaine or any salt or isomer thereof.

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Alphaprodine;
- (2) Anileridine;
- (3) Bezitramide;
- (4) Bulk Dextropropoxyphene (nondosage form);
- (5) Dihydrocodeine;
- (6) Diphenoxylate;
- (7) Fentanyl;
- (8) Isomethadone;
- (9) Levomethorphan;
- (10) Levorphanol;
- (11) Metazocine;
- (12) Methadone;
- (13) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- (14) Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenyl-propane-carboxylic acid;

- (15) Pethidine;
- (16) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (17) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (18) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (19) Phenazocine;
- (20) Piminodine;
- (21) Racemethorphan;
- (22) Racemorphan;
- (23) Sufentanil.

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

- (1) Amobarbital;
- (2) Pentobarbital;
- (3) Phencyclidine;
- (4) Phencyclidine immediate precursors:
  - (A) 1-phenylcyclohexylamine;
  - (B) 1-piperidinocyclohexanecarbonitrile (PCC);
- (5) Secobarbital.

(e) Stimulants. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a danger or probable danger associated with a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

(f) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a degree of danger or probable danger associated with a stimulant effect on the central nervous system:

- (1) Phenmetrazine and its salts;
- (2) Phenylacetone (P2P);
- (3) Methylphenidate.

(g) Hallucinogenic substances, including but not limited to Dronabinol (synthetic), in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product.

SECTION 2. Section 329-20, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Depressants. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a degree of danger or probable danger associated with a depressant effect on the central nervous system:

- (1) Alprazolam;
- (2) Barbitol;
- (3) Bromazepam;
- (4) Camazepam;
- (5) Chloral betaine;
- (6) Chloral hydrate;
- (7) Chlordiazepoxide;

ACT 204

- (8) Clobazam;
- (9) Clonazepam;
- (10) Clorazepate;
- (11) Clotiazepam;
- (12) Cloxazolam;
- (13) Delorazepam;
- (14) Diazepam;
- (15) Estazolam;
- (16) Ethchlorvynol;
- (17) Ethinamate;
- (18) Ethyl loflazepate;
- (19) Fludiazepam;
- (20) Flunitrazepam;
- (21) Flurazepam;
- (22) Halazepam;
- (23) Haloxazolam;
- (24) Ketazolam;
- (25) Loprazolam;
- (26) Lorazepam;
- (27) Lormetazepam;
- (28) Mebutamate;
- (29) Medazepam;
- (30) Meprobamate;
- (31) Methohexital;
- (32) Methylphenobarbital (mephobarbital);
- (33) Midazolam;
- [(33)] (34) Nimetazepam;
- [(34)] (35) Nitrazepam;
- [(35)] (36) Nordiazepam;
- [(36)] (37) Oxazepam;
- [(37)] (38) Oxazolam;
- [(38)] (39) Paraldehyde;
- [(39)] (40) Petrichloral;
- [(40)] (41) Phenobarbital;
- [(41)] (42) Pinazepam;
- [(42)] (43) Prazepam;
- (44) Quazepam;
- [(43)] (45) Temazepam;
- [(44)] (46) Tetrazepam;
- [(45)] (47) Triazolam."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

ACT 204

H.B. NO. 1510

A Bill for an Act Relating to Child Abuse.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 350, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§350- Any person may report. Any person, not otherwise required to report pursuant to section 350-1.1, who becomes aware of facts or circumstances which cause that person to have reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably foreseeable future, may immediately report the matter orally to the department or to the police department.”

SECTION 2. Chapter 350, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§350- Confidentiality. (a) All reports to the department concerning child abuse or neglect made pursuant to this chapter, as well as all records of such reports, are confidential. The director may adopt rules, pursuant to chapter 91, to provide for the confidentiality of reports and records and for the authorized disclosure of reports and records. Any person who intentionally makes an unauthorized disclosure of a report or record of a report made to the department shall be guilty of a misdemeanor.

(b) Every reasonable good faith effort shall be made by the department to maintain the confidentiality of the name of a reporter who requests that the reporter's name be confidential.”

SECTION 3. Section 350-1, Hawaii Revised Statutes, is amended to read as follows:

“§350-1 Definitions. For the purposes of this chapter, unless the context specifically indicates otherwise:

“Child abuse [and] or neglect” means [physical injury, psychological abuse and neglect, sexual abuse, negligent treatment, or maltreatment of a child under eighteen years of age by a parent, legal guardian, or person responsible for that child's care under circumstances which indicate that the minor's health or welfare has been or is harmed or threatened with harm.] the acts or omissions of any person who, or legal entity which, is in any manner or degree related to the child, is residing with the child, or is otherwise responsible for the child's care, that have resulted in the physical or psychological health or welfare of the child, who is under the age of eighteen, to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed. The acts or omissions are indicated for the purposes of reports by circumstances that include but are not limited to:

- (1) When the child exhibits evidence of:
    - (A) Substantial or multiple skin bruising or any other internal bleeding;
    - (B) Any injury to skin causing substantial bleeding;
    - (C) Malnutrition;
    - (D) Failure to thrive;
    - (E) Burn or burns;
    - (F) Poisoning;
    - (G) Fracture of any bone;
    - (H) Subdural hematoma;
    - (I) Soft tissue swelling;
    - (J) Extreme pain;
    - (K) Extreme mental distress;
    - (L) Gross degradation;
    - (M) Death; and
- such injury is not justifiably explained, or when the history given concerning such condition or death is at variance with the degree or type of such condition or death, or circumstances indicate that

such condition or death may not be the product of an accidental occurrence; or

- (2) When the child has been the victim of sexual contact or conduct, including, but not limited to, rape, sodomy, molestation, sexual fondling, incest, or prostitution; obscene or pornographic photographing, filming, or depiction; or other similar forms of sexual exploitation; or
- (3) When there exists injury to the psychological capacity of a child as is evidenced by an observable and substantial impairment in the child's ability to function; or
- (4) When the child is not provided in a timely manner with adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision; or
- (5) When the child is provided with dangerous, harmful, or detrimental drugs as defined by section 712-1240; provided that this paragraph shall not apply when such drugs are provided to the child pursuant to the direction or prescription of a practitioner, as defined in section 712-1240.

“Department” means the department of social services and housing.

[“Harm” or “threatened with harm” means harm or threatened harm as defined in chapter 587.

“Professional” means a person engaged in a specific occupation who examines, treats, attends, or otherwise provides specialized services to children.]

“Report” means the [oral or written disclosure, to the department of social services and housing, that a minor is believed to have been harmed or threatened with harm by a parent, legal guardian, or person responsible for that child's care.] initial oral statement and, if required by section 350-1.1(d), the subsequent written account concerning the facts and circumstances which cause a person to have reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably foreseeable future.”

SECTION 4. Section 350-1.1, Hawaii Revised Statutes, is amended to read as follows:

**“§350-1.1 Reports.** (a) [The] Notwithstanding any other state law concerning confidentiality to the contrary, the following persons who, in [the performance of] their professional or official [duties, know or have reason to believe that a child has been abused or neglected or is threatened with abuse or neglect] capacity, have reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably foreseeable future, shall [promptly] immediately report the matter orally to the department [of social services and housing] or to the police department:

- (1) Any licensed or registered professional of the healing arts and any health-related occupation who examines, attends, treats, or provides other professional or specialized services [to a minor], including, but not limited to, physicians,<sup>1</sup> including physicians in training, psychologists, dentists, nurses, osteopathic physicians and surgeons, optometrists, chiropractors, podiatrists, pharmacists, and other health-related professionals;
- (2) Employees or officers of any public or private school;
- (3) Employees or officers of any public or private agency or institution, or other individuals, providing social, medical, hospital, or mental health services, including financial assistance;



- (4) Employees or officers of any law enforcement agency, including, but not limited to, the courts, police departments, correctional institutions, and parole or probation offices;
- (5) [Providers of care, employees.] Individual providers of child care, or employees or officers of any licensed or registered child care facility, foster home, or similar institution; and
- (6) Medical examiners or coroners.

(b) Whenever a person designated in [this section] subsection (a) is a member of the staff of any public or private school, agency, or institution, that staff member shall immediately notify the person in charge, or a designated delegate, who shall [promptly] immediately report, or cause reports to be made, in accordance with this chapter. [Nothing in this section is intended to require more than one report from any school, agency, or institution.]

(c) This section does not prohibit any of the persons enumerated in subsection (a) from reporting incidents which such persons have reason to believe involve abuse or neglect which come to their attention in any private or nonprofessional capacity.

(d) Any other person who has reason to believe that a minor has been abused or neglected or is threatened with abuse or neglect may report the matter orally to the department of social services and housing or to the police department.]

[(e)] (c) The initial oral report shall be followed as soon thereafter as possible by a report in writing; provided that where a police department is the initiating agency a written report shall not be required to be filed with the department [of social services and housing] unless the police department has declined to take further action and the department [of social services and housing] informs the police department that it intends to pursue the matter of the orally reported incident of child abuse or neglect. All written reports shall contain the name and address of the [minor] child and the [minor's] child's parents or other persons responsible for the [minor's] child's care, if known, the [minor's] child's age, the nature and extent of the [minor's] child's injuries, and any other information that the reporter believes might be helpful [in establishing the cause of the injuries.] or relevant to the investigation of the child abuse or neglect.

(d) Any person subject to subsection (a) shall, upon demand of the department or any police department, provide all information related to the alleged incident of child abuse or neglect, including, but not limited to, medical records and medical reports, which was not included in the written report submitted pursuant to subsection (c).

[(f)] (e) The director [of social services] may adopt, amend, or repeal rules, subject to chapter 91, to further define or clarify the specific forms of child abuse [and] or neglect enumerated in section 350-1 for use in implementing this chapter; provided that rules adopted under this subsection shall be limited to such further or clarifying definitions.”

SECTION 5. Section 350-1.2, Hawaii Revised Statutes, is amended to read as follows:

“[[§350-1.2]<sup>1</sup> Additional information. Any person subject to section 350-1.1(a) shall, upon demand of the department of social services and housing or any police department, provide all information related to the alleged incident of child abuse, including but not limited to medical records and medical reports, which was not stated in the written report required by section 350-1.1(e).] Nonreporting; penalty. Any person subject to section 350-1.1(a) who knowingly prevents another person from reporting, or who

knowingly fails to provide information as required by section 350-1.1(c) or (d), shall be guilty of a petty misdemeanor.”

SECTION 6. Section 350-2, Hawaii Revised Statutes, is amended to read as follows:

**“§350-2 Action on reporting.** [The department of social services and housing, upon receiving such report, shall immediately take necessary action toward preventing further abuses, safeguarding and enhancing the welfare of such minor, and preserving family life wherever possible. If the injury or abuse to the minor is so serious that criminal prosecution is indicated, the department shall, in addition to taking such action under this section as it deems necessary, report its findings to the police or the office of the prosecuting attorney.] (a) Upon receiving a report concerning child abuse or neglect, the department shall proceed pursuant to chapter 587 and the department’s rules.

(b) The department shall inform the appropriate police department or office of the prosecuting attorney of the relevant information concerning a case of child abuse or neglect when such information is required by the police department or the office of the prosecuting attorney for the investigation or prosecution of that case; provided that the name of a reporter, who requested that the reporter’s name be confidential, shall only be released to a police department or an office of the prosecuting attorney pursuant to court order.

(c) The department shall maintain a central registry of reported child abuse or neglect cases and may expunge such reports as it deems appropriate and may adopt such rules [and regulations] as may be necessary in carrying out this section.”

SECTION 7. Section 350-3, Hawaii Revised Statutes, is amended to read as follows:

**“§350-3 Immunity from liability.** (a) Anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of such report. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(b) Any individual who assumes a duty or responsibility pursuant to section 350-2 or chapter 587 shall have immunity from civil liability for acts or omissions performed within the scope of the individual’s duty or responsibility. Nothing in this section shall limit the liability of the department [of social services and housing], any other state agency, or any private organization for the conduct of individuals provided immunity herein.”

SECTION 8. Section 350-5, Hawaii Revised Statutes, is amended to read as follows:

**“§350-5 Admissibility of evidence.** Neither the [doctor-patient] physician-patient privilege, the psychologist-client privilege, nor the [husband-wife] spousal privilege shall be ground for excluding evidence [regarding a minor’s injuries, or the cause thereof,] in any judicial proceeding resulting from a report of child abuse or neglect pursuant to this chapter.”

SECTION 9. Section 350-6, Hawaii Revised Statutes, is repealed.

SECTION 10. Section 350-7, Hawaii Revised Statutes, is repealed.

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 12. This Act shall take effect upon its approval.

(Approved June 6, 1987.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 205

H.B. NO. 1512

A Bill for an Act Relating to Taxable Mortgage Securities Programs.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** The legislature finds that existing loan programs may not provide sufficient resources to meet the future demand for lower interest residential mortgage loans.

The legislature further finds that the housing loan program, popularly known as the "Hula Mae Loan Program", which was established by the state legislature in 1979 has been a very successful program in providing below-market-interest-rate loans to first-time homebuyers. Working with the private sector, the Hawaii housing authority to date has assisted approximately 4,400 families in purchasing a home of their own since the first tax-exempt bond issue in 1980.

The legislature further finds that despite the success of the Hula Mae loan program, mortgage financing alternatives must be sought due to passage of the Tax Reform Act of 1986. Provisions in the tax reform measure have placed much stricter income and purchase price limits on the Hula Mae program; in fact, it is estimated that a large percentage of the families and properties which have previously qualified for Hula Mae financing would no longer qualify under the new federal laws regarding tax-exempt mortgage revenue bond programs.

The legislature further finds that there is a need to assist homebuyers in the "gap group" who will no longer qualify under the new stringent provisions governing the tax-exempt revenue bond program, and who are unable to qualify for a conventional mortgage loan.

The legislature further finds that the state constitution was amended by the people of Hawaii on November 7, 1978, to permit mortgage revenue securities to be issued without being counted toward the State's debt ceiling since such securities are not financial obligations of the State.

The legislature further finds and declares that the powers conferred, the issuance of mortgage securities, and the expenditure of public moneys under this Act serve a valid public purpose, and that this enactment is in the public interest.

The purpose of this Act is to alleviate the shortage of long-term investment funds for housing in this State by authorizing the Hawaii housing authority to raise funds nationally from private investors through the sale of taxable mortgage securities, and to make those funds available at affordable interest rates through mortgage lenders to meet the needs of persons and families of moderate income. The availability of such funds will encourage further increases of the housing inventory within an affordable price range. These funds will be used in the housing loan programs in accordance with this Act and the criteria established by the authority.

It is the intent of this Act that the housing loan programs provided herein should be made available on a non-exclusive basis to interested mortgage lenders who are otherwise active in mortgage lending in the State.

SECTION 2. Chapter 356, Hawaii Revised Statutes, is amended by adding a new part to be designated and to read as follows:

**“PART IV. TAXABLE MORTGAGE  
SECURITIES PROGRAMS**

**§356-401 Definitions.** Whenever used in this part, unless the context otherwise requires:

“Eligible borrower” means any person or family, irrespective of race, creed, national origin, or sex, who:

- (1) Is a citizen of the United States or a declarant alien;
- (2) Is a bona fide resident of the State;
- (3) Is at least of legal age;
- (4) Does not personally, or whose spouse if the person is married, own any interest in any residential property in the State; and
- (5) Meets other qualifications as established by rules adopted by the authority.

“Eligible loan” or “loan” means a loan to an eligible borrower for the purchase of a housing unit, including a condominium unit; provided that the property financed is located in the State, will be occupied as the principal place of residence by the eligible borrower, and meets other requirements as established by rules adopted by the authority.

“Housing loan programs” include all or any part of the loan programs authorized in section 356-403.

“Mortgage lender” means any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, credit union, insurance company, or any other financial institution, or a holding company for any of the foregoing, which:

- (1) Is authorized to do business in the State;
- (2) Customarily provides service or otherwise aids in the financing of mortgages on single-family or multi-family residential property; and
- (3) Is a financial institution whose accounts are federally insured or is an institution which is an approved mortgagee for the Federal Housing Administration or is an approved lender for the Veterans Administration or the Farmers Home Administration or is an approved mortgage loan servicer for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

“Securities” as used in this part means revenue bonds, participation certificates, pass-through certificates, mortgage-backed obligations, and other obligations of the authority issued to finance any of the housing loan programs under this part.

“Trustee” means a national or state bank or trust company within or without the State which enters into a trust indenture.

“Trust indenture” means an agreement by and between the authority and the trustee, which sets forth the duties of the trustee with respect to the securities, the security therefor, and other provisions as deemed necessary or convenient by the authority to secure the securities.

**§356-402 Housing loan programs; authorization.** (a) The authority may establish under this part one or more eligible loan programs.

(b) The authority may invest in, make, purchase, take assignments of, or otherwise acquire or make commitments to invest in, make, purchase, take assignments of, or otherwise acquire any eligible loans or any partial interest or participation therein held by or on behalf of the authority.

(c) The authority may sell, assign, or otherwise dispose of or enter into commitments to sell, assign, or otherwise dispose of any eligible loans or any partial interest or participation therein held by or on behalf of the authority.

(d) The authority may acquire any obligation under conditions which require the seller of such obligation to use the proceeds of the sale for the purpose of financing eligible loans.

**§356-403 Housing loan programs; procedures and requirements. (a)**

The authority may establish procedures and requirements for:

- (1) The purchase of loans from mortgage lenders by auction, invitation of tender, advance commitment, or other negotiation;
- (2) The making of loans through mortgage lenders to eligible borrowers or qualified sponsors;
- (3) The allocation to mortgage lenders of money made available under this part; and
- (4) The participation by mortgage lenders as originators and processors of loans on behalf of the authority under this part.

(b) The authority may adopt rules necessary or convenient for the operation of the housing loan programs established under this part.

**§356-404 Housing loan programs; general powers. (a)** The authority may make, enter into, and enforce all contracts or agreements which are necessary, convenient, or desirable for the purpose of the performance of its powers under this part.

(b) The authority may establish, revise, charge, and collect fees, premiums, and charges as necessary, reasonable, or convenient in connection with its housing loan programs established under this part. The fees, premiums, and charges shall be deposited into such funds as are determined by the authority.

(c) The authority may contract for the servicing and custody of any loans or other obligations acquired under this part.

(d) The authority may procure insurance against any default of its loans from insurers in amounts deemed necessary or desirable.

(e) Subject to any agreements with the holders of its securities, the authority may renegotiate, refinance, or foreclose any loan in default; and may commence any action to protect or enforce any right conferred upon it by any law, or as provided in any mortgage, insurance policy, contract, or other agreement; and may bid for and purchase the property secured by the loan at any foreclosure or other sale; or acquire, or take possession of the property secured by the loan and may operate, manage, lease, dispose of, or otherwise deal with the property securing the loan.

**§356-405 Securities; authorization. (a)** The authority, with the approval of the governor, may issue and sell from time to time securities in amounts determined by the authority for the purpose of undertaking and maintaining any of the housing loan programs established under this part.

(b) All securities issued under this part shall be issued pursuant to part III of chapter 39, except as provided in this part, and except that the term "revenue bonds" as used in part III of chapter 39 shall mean the securities.

(c) All securities issued under this part shall be issued in the name of the authority and not in the name of the State.

**§356-406 Securities; payment and security.** (a) The securities may be payable from and secured by the revenues derived from the housing loan program for which such securities are issued, from designated sources as the authority may determine, or from the revenues and other property of the authority.

(b) The authority may pledge any revenues or other property described in subsection (a) to pay the principal, interest, and redemption premium, if any, on the securities, and may provide for priorities or distinctions among securities of the same issue in the application of such pledge.

(c) The securities may represent interests in eligible loans and other obligations acquired by the authority under this part.

(d) Any pledge made by the authority shall create a perfected security interest in the revenues or property so pledged thereafter received by the authority from and after the time that a financing statement with respect to such revenues or property shall be filed with the bureau of conveyances or, if appropriate, with the assistant registrar of the land court. Upon such filing, the revenues or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be prior to the lien of all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof.

**§356-407 Securities; terms.** (a) The securities shall mature and be payable at such times, at such places, and in such amounts as may be determined by the authority. Interest bearing securities shall bear interest at such rate or rates, fixed or variable, determined in such manner or manners, as may be determined by the authority.

(b) The authority may include the costs of undertaking and maintaining the housing loan programs for which the securities are issued in determining the principal amount of securities to be issued, including interest on such securities or the cost of carrying such securities for such period as may be determined by the authority.

(c) The securities may be sold at public or private sale and for such prices as may be determined by the authority to be in the best interests of the State.

**§356-408 Securities; investment of proceeds.** The authority may invest the proceeds from the sale of any securities and any other moneys relating to such securities or the housing loan programs for which such securities are sold, in any manner permitted by the agreements, including any trust indenture, relating to such securities.

**§356-409 Securities; trustee designation and duties.** (a) The authority may designate a trustee for each issue of securities.

(b) The trustee shall perform such duties relating to the securities and the housing loan programs financed thereby as may be determined by the authority.

(c) The trustee may be designated by the authority to serve as fiscal agent of the authority for:

- (1) The payment of the principal of and interest and redemption premium, if any, on and any other amounts payable with respect to the securities;

- (2) The purchase, authentication, registration, transfer, exchange, and redemption of the securities and such other functions related to the foregoing as the authority may deem necessary, advisable, or expeditious.

**§356-410 Securities; trust indenture.** (a) Any trust indenture relating to the securities may contain covenants and provisions authorized by part III of chapter 39 and as deemed necessary or convenient by the authority for the purposes of this part, including any pledge authorized by section 356-406.

(b) When a trust indenture provides that any security issued under that trust indenture is not valid or obligatory for any purpose unless certified or authenticated by the trustee or any other authenticating agent, all signatures of the officers of the authority or the State upon the securities required by section 39-64 may be facsimiles of their signatures.

**§356-411 Securities; special funds.** (a) Separate special funds may be established, as determined by the authority, for each housing loan program financed under this part. Each fund shall bear such designation as the authority deems appropriate to properly identify the fund.

(b) Revenues, income, and receipts derived from the housing loan programs for which securities are issued under this part shall be paid into such fund or funds as determined by the authority in the proceedings authorizing the issuance of the securities.

**§356-412 State not liable on securities; securities tax exempt.** (a) The securities shall not be a debt of the State and the State shall not be liable thereon. The securities shall not be payable out of any funds or properties other than those of the authority. The securities shall not constitute an indebtedness within the meaning of any debt limitation or restriction. The securities shall contain recitals to the effect of the foregoing.

(b) The securities under this part are declared to be issued for a public purpose and, together with interest thereon, shall be exempt from all state and county taxation except estate and transfer taxes. Interest on the securities need not be exempt from federal income taxation."

**SECTION 3.** Securities may be issued by the Hawaii housing authority pursuant to part III of chapter 39, Hawaii Revised Statutes, and this Act in an aggregate principal amount not to exceed \$400,000,000 at such times and in such amounts as it deems advisable for the purpose of undertaking and maintaining any of the housing loan programs authorized by this Act.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved June 6, 1987.)

**ACT 206**

H.B. NO. 1931

A Bill for an Act Relating to Credit Cards.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section<sup>1</sup> 478, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§478- Credit cards.** With regard to every credit card issuer wherever located and a customer who is a resident of this State and who is given

## ACT 207

the opportunity to enter into a credit card plan, every solicitation and application for the credit card plan shall set forth all of the following:

- (1) Annual percentage rate, or if the rate may vary, a statement that it may do so and the circumstances under which it may increase and the effects of the increase;
- (2) The date or occasion upon which the finance charge begins to accrue;
- (3) Whether any annual fee is charged and the amount of the fee;
- (4) Any minimum, fixed, transaction, activity or similar charge that could be imposed; and
- (5) That charges incurred by the use of a charge card are due and payable upon receipt of a periodic statement of charges if applicable. For purposes of this paragraph, the term "charge card" means any card, plate or other device pursuant to which the charge card issuer extends credit which is not subject to a finance charge and where the charge cardholder cannot automatically access credit that is repayable in installments."

SECTION 2. New statutory material is underscored.<sup>2</sup>

SECTION 3. This Act shall take effect on January 1, 1988.

(Approved June 6, 1987.)

### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 207

H.B. NO. 331

A Bill for an Act Relating to Intoxicating Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-101.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Any person under age eighteen who violates this section shall be imprisoned not more than six months or fined not more than \$500, or both, subject to the jurisdiction of the family court. Any person age eighteen or older who violates subsection (a) shall be guilty of a misdemeanor. Any person age eighteen to twenty-one who violates subsections (b) or (c) shall be guilty of a petty misdemeanor."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1987.)

## ACT 208

H.B. NO. 1521

A Bill for an Act Relating to Real Estate.

*Be It Enacted by the Legislature of the State of Hawaii:*



SECTION 1. Section 467-22, Hawaii Revised Statutes, is amended to read as follows:

**“§467-22 Subrogation of rights.** When, upon the order of the court, or upon the commission’s settlement of a claim, the real estate commission has paid from the real estate recovery fund any sum to the judgement creditor, the commission shall be subrogated to all of the rights of the judgement creditor and the judgement creditor shall assign all the creditor’s right, title, and interest in the judgement or settlement to the commission and any amount and interest so recovered by the commission on the judgement or settlement shall be deposited to the fund.”

SECTION 2. Section 467-16, Hawaii Revised Statutes, is amended to read as follows:

**“§467-16 Real estate recovery fund; use of fund; fees.** The real estate commission shall establish and maintain a real estate recovery fund from which any person aggrieved by an act, representation, transaction, or conduct of a duly licensed real estate broker, or real estate salesman, upon the grounds of fraud, misrepresentation, or deceit, may recover upon the commission’s settlement of a claim or by order of the circuit court or district court of the county where the violation occurred, an amount of not more than \$25,000 per transaction for damages sustained by the fraud, misrepresentation, or deceit, including court costs and fees as set by law, and reasonable attorney fees as determined by the court.

When any person makes application for an original license to practice as a real estate broker or salesman the person shall pay, in addition to the person’s original license fee, a fee of \$50 for deposit in the real estate recovery fund. If the commission does not issue the license, this fee shall be returned to the applicant.”

SECTION 3. The Hawaii Revised Statutes is amended by adding a new chapter<sup>1</sup> to be appropriately designated and to read as follows:

**“§ -1 Notification required; ambiguity; penalty.** (a) When real property lies 1) within the boundaries of a special flood hazard area as officially designated on Flood Insurance Administration (FIA) maps promulgated by the United States Department of Housing and Urban Development for the purposes of determining eligibility for emergency flood insurance programs; 2) within the boundaries of the noise exposure area shown on maps prepared by the department of transportation in accordance with Federal Aviation Regulation Part 150—Airport Noise Compatibility Planning (14 C.F.R. Part 150) for any public airport; 3) within the boundaries of the Air Installation Compatibility Use Zone (AICUZ) of any Air Force, Army, Navy, or Marine Corps airport as officially designated by military authorities; or 4) within the anticipated inundation areas designated on the department of defense’s Civil Defense Tsunami Inundation Maps:

- (1) Any licensee shall provide timely notification to prospective buyers, lessees, and tenants prior to any sale, lease, transfer, or any other transaction relating to the real property, that the property is situated within any of the zones, maps, or areas designated in this subsection pursuant to maps which designate the four areas by tax map key number (zone, section, parcel); provided that notification shall not be required in the case of a rental lease or rental agreement, the term of which is one year or less. The real estate commission shall provide guidelines as to the method and timing of the required notification; and

(2) Each county shall provide, where available, maps of its jurisdiction detailing the four designated areas specified in this subsection. The maps shall identify the properties situated within the four designated areas by tax map key number (zone, section, parcel) and shall be of a size sufficient to provide information necessary to serve the purposes of this section. Each county shall provide legible copies of the maps to licensees and may charge a reasonable fee therefor.

(b) When it is questionable whether real property lies within any of the designated areas referred to in subsection (a) due to the inherent ambiguity of boundary lines drawn on maps of large scale, the ambiguity shall be construed in favor of the licensee provided a good faith effort has been made to determine the applicability of subsection (a) to the subject real property.

(c) Any person who violates this section shall be fined not less than \$100 nor more than \$500. Nothing in this section shall affect the validity of title to real property transferred, based solely on the reason that any licensee failed to conform to the provisions of this section."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. New statutory material is underscored.<sup>2</sup>

SECTION 6. This Act shall take effect upon its approval; provided that section 3 shall take effect upon the notification by the Commission to licensees of the completion and availability of county maps detailing the four designated areas.

(Approved June 7, 1987.)

Notes

- 1. So in original.
- 2. Edited pursuant to HRS §23G-16.5.

ACT 209

S.B. NO. 1142

A Bill for an Act Relating to Precinct Officials.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-72, Hawaii Revised Statutes, is amended to read as follows:

**"§11-72 Precinct officials; submission of names and assignment; vacancies.** All qualified political parties shall submit names for precinct officials to the chief election officer not later than 4:30 p.m. on the ninetieth day prior to the close of filing for any primary, special primary, or special election. All precinct officials shall be able to read and write the English language. If any party shall fail to submit the required names by the above deadline, the chief election officer may fill such positions with available qualified persons.

In assigning the precinct officials the following criteria shall be followed:

- (1) The precinct officials shall be registered voters of the precinct in which they serve; but if qualified persons in the precinct or representative district are not readily available to serve, they

may be chosen from without the precinct or representative district[.], or if qualified persons either in or without the precinct or representative district are not available to serve, the chief election officer may designate precinct officials who are not registered voters if the persons so designated are otherwise qualified and shall have attained the age of sixteen years on or before December 31, of the year preceding the appointment.

- (2) The chief election officer may designate more precinct officials than are needed in order to create a pool of qualified precinct officials who may be assigned to fill vacancies or to perform such duties as needed in any precinct.
- (3) No parent, spouse, child, or sibling of a candidate shall be eligible to serve as a precinct official in any precinct in which votes may be cast for the candidate; nor shall any candidate for any elected office be eligible to serve as a precinct official in the same election in which he is a candidate. No candidate who failed to be nominated in the primary or special primary election shall be eligible to serve as a precinct official in the general election next following.
- (4) The chairman of the precinct officials shall be of the same party as the governor and shall be the first named precinct official on the list prepared by the chief election officer. The remainder of the precinct officials shall be apportioned as follows:
  - (A) The total votes cast, except those cast for nonpartisan candidates, for all of the following offices which were on the ballot in the next preceding general election shall be divided into the total votes cast for all the candidates of each party for such offices: president and vice-president, United States senator, United States representative, governor and lieutenant governor, state senator, and state representative.
  - (B) In that<sup>1</sup> event that a party's proportion of votes cast exceed<sup>1</sup> fifty per cent, its share shall be one-half of the precinct officials. The remaining one-half shall be divided among the remaining parties in proportion to their respective total of votes cast for the offices set forth in subparagraph (A).
  - (C) In the case of the above division resulting in parties having fractional positions a whole position shall go to the party with the larger number of votes cast.
  - (D) Newly qualified parties may be assigned up to ten per cent of the total positions available at the discretion of the chief election officer.

In case of inability, failure, or refusal of any person so assigned to serve as a precinct official the chief election officer shall, so far as reasonably practicable, appoint a person to fill the vacancy from the same party as that of the person to be replaced. In case of doubt as to the party affiliation of a precinct official, the chief election officer shall use first, the party membership list; and second, the person's word [for his party affiliation].”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

**ACT 210**

SECTION 3. This Act shall take effect upon its approval and shall be repealed on December 31, 1989.

(Approved June 12, 1987.)

**Note**

1. So in original.

**ACT 210**

S.B. NO. 1143

A Bill for an Act Relating to the Board of Registration.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-42, Hawaii Revised Statutes, is amended to read as follows:

**“§11-42 Compensation[.]; expenses.** [The members of the board of registration shall be paid \$45 a day for each day of actual service.] Members shall be compensated at the rate of \$70 a day for each day of actual service and may be reimbursed for any necessary expense incurred in the performance of their authorized duties.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 12, 1987.)

**ACT 211**

S.B. NO. 1146

A Bill for an Act Relating to Use of Federal Write-In Absentee Ballot.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 15, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§15- Federal write-in absentee ballot.** Notwithstanding the provisions of this chapter and chapters 11 and 16, the federal write-in absentee ballot for overseas voters in general elections for federal office which must be prescribed under section 1973ff of title 42, United States Code, as amended, may be used in general elections for federal offices.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 12, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 212**

S.B. NO. 1172

A Bill for an Act Relating to Alleviating Traffic Congestion.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** The legislature finds that rush-hour traffic on the major arteries leading into and out of Honolulu has reached levels exceeding practical capacity of existing facilities. The traditional approaches taken to alleviate traffic congestion have been to build more highways and to develop large mass transit systems. However, these capital intensive approaches are expensive and can give rise to concerns about the environment from the standpoint of aesthetics and limited land resources. Moreover, the approaches involve large construction projects that take many years to complete and that often exacerbate traffic congestion during the construction period.

The legislature finds that there are alternative means of addressing the traffic congestion problem that can be implemented relatively quickly. These alternatives would not necessarily replace the traditional approaches which are more costly and potentially environmentally objectionable, but would promote more efficient use of existing facilities and help reduce the need for additional highway and mass transit projects.

The legislature finds that one such alternative is large-scale staggering of work and school hours. Although present law grants the governor power to modify public school, agency, and business office hours, studies have found that for the staggering of school hours to be effective in reducing congestion, the hours of private schools, the University of Hawaii, and colleges in Honolulu have to be staggered as well. According to one study (the 1985 report by Kaku Associates entitled School Hours Change Study), the private schools contribute fifty percent of the morning peak school-related traffic on the major traffic corridors into Honolulu, the University of Hawaii system and other colleges in Honolulu contribute thirty-nine per cent and public high schools contribute eleven per cent of the school-related morning peak traffic on the major traffic corridors into Honolulu. If the University, colleges, and public high schools were to modify their starting times, peak period travel time for morning commuters on the major corridors leading into Honolulu could be reduced.

The legislature further finds that a second alternative to staggering work and school hours in order to reduce peak hour congestion is to remove altogether the need to travel into the primary urban center.

One means of doing this is to convert employee schedules from a five-day to a four-day workweek. This would reduce the need to travel into urban Honolulu during peak traffic hours by one day, or twenty per cent, for those employees participating. The legislature finds that this four-day workweek could be offered to state government employees working in urban Honolulu where work requirements permit and where appropriate agreements have been worked out with representatives of the respective collective bargaining units.

Another means of removing the need to travel into the primary urban center would be to decentralize locations of employment. The State has plans to expand state government office space in the Civic Center area by forty-five per cent by the year 1995. The legislature finds that traffic congestion in the primary urban center could be reduced if this expansion could proceed outside the primary urban center in an Ewa direction where city development plans are slated to direct thirty per cent of Oahu's projected population growth by the year 2000.

The purpose of this Act is to propose amendments to the Hawaii Revised Statutes to enable the governor to explore alternatives to traditional, capital intensive traffic solutions.

## ACT 213

SECTION 2. Chapter 103, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§103- Contract provisions to consider traffic.** Unless otherwise prohibited by law, all public contracts awarded under this chapter shall consider the extent to which the work undertaken pursuant to the contract will increase traffic congestion during peak traffic hours. The contract shall contain provisions to reasonably minimize any adverse impact.”

SECTION 3. Section 80-1, Hawaii Revised Statutes, is amended to read as follows:

**“§80-1 Office hours.** Offices of the State and counties and independent boards and commissions thereof shall be open for the transaction of public business between the hours of 7:45 a.m. and 4:30 p.m., Monday to Friday, inclusive. By executive order, the governor may modify the hours of business offices, other agencies, and schools, including but not limited to state universities, in order to meet a demonstrated need for public services, to provide for the efficient operation of business, to encourage energy conservation, and to reduce traffic congestion. Offices shall be closed on Saturday, except those which public convenience require shall remain open from 8 a.m. to noon on Saturday. Offices open on Saturday may be staffed with a skeleton force. A lunch period of forty-five minutes will be allowed all governmental personnel, which shall not constitute working time under this section.”

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved June 12, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 213

S.B. NO. 1702

A Bill for an Act Relating to Employees of the Lieutenant Governor's Office.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26-1, Hawaii Revised Statutes, is amended to read as follows:

**“§26-1 Office of the lieutenant governor.** Except as otherwise provided by law, the lieutenant governor is designated the secretary of State for intergovernmental relations and shall perform the duties and functions heretofore exercised by the secretary of Hawaii. The duties and functions shall include, but not be limited to, supervision of elections, recordation of all legislative and gubernatorial acts, certification of state documents, and maintenance of an official file of rules and regulations promulgated by state

departments as provided in chapter 91. The lieutenant governor may employ staff as necessary without regard to the provisions of chapters 76 and 77, except for six permanent election positions pursuant to section 11-5.

The lieutenant governor, with the approval of the governor, may designate some other officer of the government of the State to authenticate documents on behalf of the lieutenant governor during the lieutenant governor's temporary absence without the State or during the lieutenant governor's illness whenever the documents require the signature of the lieutenant governor. The person shall affix the person's own signature to the document with the words, "for the lieutenant governor" following and the signature shall be deemed to satisfy the requirement of the lieutenant governor's signature on the document. The designation and approval shall be in writing and shall be filed in the office of the governor and a copy thereof, certified by the governor, shall be filed with the public archives. The person so designated shall serve without additional compensation and the lieutenant governor shall be responsible and liable on the lieutenant governor's official bond for all acts done by the person so designated in the performance of the duties on behalf of the lieutenant governor.

Nothing in this section shall be construed to authorize the person to exercise and discharge the powers and duties of the office of the governor as provided by the first paragraph of Article V, section 4 of the Constitution of the State. The person shall not be authorized to exercise any powers whenever a successor to the lieutenant governor assumes the duties of the lieutenant governor pursuant to Article V, section 4 of the Constitution."

SECTION 2. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

**"§76-16 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the State now existing or hereafter established and embraces all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington Place [and eight employees in the office of the lieutenant governor];
- (6) Positions filled by popular vote;

## ACT 213

- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, and one law clerk for each judge of the circuit court and the administrative judge of the district court of the first circuit (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); sheriff, first deputy sheriff, and second deputy sheriff; and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty non-certificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor, for which projects federal funds are available;
- (13) Positions filled by inmates, kokuas, and patients of state institutions, and persons with severe physical or mental handicaps participating on the work experience training programs, students, and positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
- (14) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, Article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports



divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of social services and housing either in charge of welfare or such other functions within the department as may be assigned by the director of social services; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; one additional deputy in the department of planning and economic development to perform the duties assigned by the director of planning and economic development and approved by the governor; and an administrative assistant to the superintendent of education;

- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that no more than twenty-six per cent of the authority's work force in any housing project maintained by<sup>1</sup> or operated by the authority shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii which require hiring of nutrition program assistants who live in the areas they serve; and
- (23) Positions filled by the severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to safely perform the duties of the positions.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

**SECTION 3.** Any employee of the office of the lieutenant governor presently subject to chapters 76 and 77, Hawaii Revised Statutes, shall retain civil service status.

**SECTION 4.** Statutory material to be repealed is bracketed. New statutory material is underscored.

**SECTION 5.** This Act shall take effect upon its approval.

(Approved June 12, 1987.)

**ACT 214****Note**

1. So in original.

**ACT 214****H.B. NO. 1469****A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.***Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, others, and cases for overpayment of taxes, or on account of other claims for refunds, reimbursements, payments of judgments or settlements, or other payments, against the State in the amount set forth opposite their names:<sup>1</sup>

REFUND OF TAXES:	<u>Amount</u>
Hawaiian Airlines, Inc. No. 10350, Supreme Court Date of Judgment: April 29, 1985 Amount of Judgment:	\$ -138,522.09
<b>JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:</b>	<u>Amount</u>
Ahina v. Cardines Civil No. 84-218, First Circuit Amount of Settlement: No interest	\$ -222,000.00
Anderson v. Zion Civil No. 82109, First Circuit Amount of Settlement: No interest	\$ -25,000.00
Andrion v. Yuen Civil No. 5999(1), Second Circuit Amount of Settlement: No interest	\$ -435,000.00
Baccus v. State Civil No. 85-1266, First Circuit Amount of Settlement: No interest	\$ -40,000.00
Balch v. State Civil No. 07029(1), Second Circuit Amount of Settlement: No interest	\$ -275,000.00
Borge v. State Civil No. 6899(1), Second Circuit Amount of Settlement: No interest	\$ -75,000.00
Carvalho, R. v. State Civil No. 7890(2), Second Circuit Amount of Settlement: No interest	\$ -175,000.00

**ACT 214**

Carvalho, V. v. Barnette Civil No. 84-0164, First Circuit Amount of Arbitration Award: No interest			\$ -2,995,000.00
Coachman v. State Civil No. 85-3301, First Circuit Amount of Settlement: No interest			\$ -45,000.00
Cuban v. State Civil No. 86-0910, First Circuit Amount of Settlement: No interest			\$ -20,000.00
Dang v. State Civil No. 7266(1), Second Circuit Amount of Settlement: No interest			\$ -16,000.00
Dodds v. Amfac Civil No. 85-0032(3), Second Circuit Amount of Settlement: No interest			\$ -50,000.00
DOE v. Katherine D. Civil No. 80-0582, USDC Amount of Stipulated Judgment:	\$ 45,000.00		
Interest at 10% from 8/5/86	4,450.69		\$ -49,450.69
Fernandez v. City & County Civil No. 83288, First Circuit Amount of Settlement: No interest			\$ -5,000.00
Fiedler v. Department of Health Civil No. 70405, First Circuit Amount of Settlement: No interest			\$ -5,000.00
Galapir v. Ramil Civil No. 85-0956, First Circuit Amount of Settlement: No interest			\$ -10,000.00
Ishikawa v. Rafael Civil No. 81646, First Circuit Amount of Settlement: No interest			\$ -235,000.00
Kahla v. State Civil No. 85-0037, Fifth Circuit Amount of Settlement: No interest			\$ -8,000.00
Kai v. State Civil No. 86-4553, First Circuit Amount of Settlement			\$ -20,000.00
Kang v. Malibu Grand Prix Civil No. 85-2573, First Circuit Amount of Settlement: No interest			\$ -50,000.00
Lambayan v. DOE Civil No. 81-0410, USDC Amount of Settlement:	\$ 3,750.00		

**ACT 214**

Interest at 5.79% from 12-4-86	142.77	\$	-3,892.77
Libertarian Party v. Waihee Civil No 86-0439, USDC Hawaii Amount of Stipulated Judgment:	\$ 4,604.00		
Interest at 5.77% from 11-26-86	180.50	\$	-4,784.50
Limperos v. State Civil No. 7883(1), Second Circuit Amount of Settlement:		\$	-75,000.00
No interest			
Lovato v. State Civil No. 5951(1), Second Circuit Amount of Settlement:		\$	-110,000.00
No interest			
Madigan v. State Civil No. 5567, Second Circuit Amount of Judgment:	\$ 142,200.00		
Interest at 4% from 3-17-86	7,822.95		
Costs:	2,303.64	\$	-152,326.59
Mariano v. State Civil No. 85-1269, First Circuit Amount of Settlement:		\$	-36,000.00
No interest			
McCaffrey, P. v. State Civil No. 84-1758, First Circuit Amount of Settlement:		\$	-200,000.00
No interest			
Nakagawa v. State Civil No. SCD 87-266, First Circuit Amount of Settlement		\$	-2,500.00
Neil v. Wells Civil No. 85-0990, First Circuit Amount of Settlement:		\$	-10,000.00
No interest			
Pacific Poultry v. State Civil No. 84-0995, First Circuit Amount of Settlement:		\$	-75,000.00
No interest			
Park v. City and County Civil No. 45301, First Circuit Amount of Settlement:		\$	-35,000.00
No interest			
Rabe v. State Civil No. 84-1541, First Circuit Amount of Settlement:		\$	-60,000.00
No interest			
Ramelb v. State Civil No. 83227, First Circuit Amount of Settlement:		\$	-97,500.00
No interest			
Roe v. Wong Civil No. 83294, First Circuit Amount of Settlement:		\$	-125,000.00

ACT 214

No interest		
Sammis v. State Civil No. 84-2126, First Circuit Amount of Settlement: No interest		\$ -60,000.00
Sasaki v. Americana Hotels Civil No. 84-0870, First Circuit Amount of Settlement: No interest		\$ -5,000.00
Schmidt v. State Civil No. 9406, Third Circuit Amount of Settlement: No interest		\$ -10,000.00
Schoolcraft v. State Civil No. 7030(1), Second Circuit Amount of Settlement: No interest		\$ -25,000.00
Sholtes v. Fuentes Civil No. 80176, First Circuit Amount of Settlement: No interest		\$ -15,893.41
Siu v. Tokushima Civil No. 82962, First Circuit Amount of Settlement: No interest		\$ -12,000.00
Smylie v. State No. 10732, Supreme Court Amount of Settlement: \$ 23,000.00 Interest at 4% from 5-15-86: 1,116.61		\$ -24,116.61
Sotelo v. State Civil No. 85-1136, First Circuit Amount of Settlement: No interest		\$ -130,000.00
Suwa v. Lee Civil No. 79863, First Circuit Amount of Settlement: No interest		\$ -10,000.00
Welter v. Toyota Civil No. 81082, First Circuit Amount of Settlement: No interest		\$ -650,000.00
Winter v. State Civil No. 87-0684-03, First Circuit Amount of Settlement: No interest		\$ -20,000.00
Yamashita v. State Civil No. 77954, First Circuit Amount of Settlement: No interest		\$ -15,000.00
Zack v. Amfac Civil No. 7598(2), Second Circuit Amount of Settlement: No interest		\$ -30,000.00
Zukeran v. City		

## ACT 214

Civil No. 84-0031, First Circuit Amount of Settlement: No interest		\$	-5,000.00
Hogg v. DOT Civil No. 85-2622, First Circuit Amount of Settlement: No interest		\$	-8,000.00
Nuesca v. State Civil No. 85-2889, First Circuit Amount of Settlement: No interest		\$	-28,000.00
Rudolph v. State Civil No. 85-2889, First Circuit Amount of Settlement: No interest		\$	-8,000.00
Takiguchi v. State Civil No. 85-0110, Fifth Circuit Amount of Settlement: No interest		\$	-2,500.00
Walsh v. State Criminal No. 85-1539, District Court of the First Circuit Amount of Settlement: Interest:	\$4,114.96 145.48	\$	-4,260.44
White v. State Civil No. 1407, Fifth Circuit Amount of Settlement: No interest		\$	-80,000.00
<b>MISCELLANEOUS CLAIMS</b>			
Ethel Mae K. Pakele		\$	-4.85
Richard Yanagida		\$	-434.30

**SECTION 2.** The sums hereinabove appropriated shall be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in the several amounts hereinabove set forth upon warrants issued by the comptroller of the State: (1) upon vouchers approved by the director of taxation as to claims for overpayment of taxes and (2) upon vouchers approved by the attorney general as to all other claims.

**SECTION 3.** Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State and settlements of claims, payment of interest, at the rate stated above, shall be limited to the period from the date of judgment or settlement, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases where judgment or settlement was based on chapter 662, Hawaii Revised Statutes.

**SECTION 4.** All unexpended and unencumbered balances of the appropriations made by Section 1 of this Act as of the close of business on June 30, 1988, shall lapse into the general fund of the State.

**SECTION 5.** To provide for the payment of a settlement agreement negotiated by the State of Hawaii in Moseman Construction Company v. State of Hawaii, First Circuit Civil No. 85-1226, there is appropriated a sum not to exceed \$2,640,000.00 out of general obligation bond funds of the State of Hawaii for fiscal year 1987-1988, with debt service to be paid out of the state highway fund. This appropriation shall be used for settlement of the

pending claims involving the highway construction project, Wilson Bridge and Approaches, District of Wahiawa, Island of Oahu, Federal Aid Project No. BRF-BR-080-1(7).

The Moseman suit seeks damages of more than \$4,000,000. The claims are grounded on a contract awarded to Moseman Construction Co., by the state department of transportation for a federal-aid highway construction project on Oahu.

The departments of the attorney general and of transportation have evaluated the claims and consider the settlement to be in the best interest of the State. The evaluation included considerations of the projected cost of defending the claims and the potential exposure to liability.

SECTION 6. The sum appropriated in Section 5 of this Act shall be expended by the department of transportation for the purposes of this Act.

SECTION 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 22, 1987.)

Note

- 1. Items vetoed and initialed "JW".

ACT 215

S.B. NO. 1735

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, others, and cases for overpayment of taxes, or on account of other claims for refunds, reimbursements, payments of judgments or settlements, or other payments, against the State in the amount set forth opposite their names:

REFUND OF TAXES:	<u>Amount</u>
HAWAIIAN AIRLINES, INC. No. 10350, Supreme Court Date of Judgment: April 29, 1985 Additional interest:	\$ 138,522.09
JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	<u>Amount</u>
Ahina v. Cardines Civil No. 84-218, First Circuit Amount of Settlement: No interest	\$ 222,000.00
Anderson v. Zion Civil No. 82109, First Circuit	

**ACT 215**

Amount of Settlement:		\$	25,000.00
No interest			
Andrion v. Yuen			
Civil No. 5999(1), Second Circuit			
Amount of Settlement:		\$	435,000.00
No interest			
Baccus v. State			
Civil No. 85-1266, First Circuit			
Amount of Settlement:		\$	40,000.00
No interest			
Balch v. State			
Civil No. 07029(1), Second Circuit			
Amount of Settlement:		\$	275,000.00
No interest			
Borge v. State			
Civil No. 6899(1), Second Circuit			
Amount of Settlement:		\$	75,000.00
No interest			
Carvalho, R. vs. State			
Civil No. 7890(2), Second Circuit			
Amount of Settlement:		\$	175,000.00
No interest			
Carvalho, V. v. Barnette			
Civil No. 84-0164, First Circuit			
Amount of Arbitration Award:		\$	2,995,000.00
No interest			
Coachman v. State			
Civil No. 85-3301, First Circuit			
Amount of Settlement:		\$	45,000.00
No interest			
Cuban v. State			
Civil No. 86-0910, First Circuit			
Amount of Settlement:		\$	20,000.00
No interest			
Dang v. State			
Civil No. 7266(1), Second Circuit			
Amount of Settlement:		\$	16,000.00
No interest			
Dodds v. Amfac			
Civil No. 85-0032(3), Second Circuit			
Amount of Settlement:		\$	50,000.00
No interest			
DOE v. Katherine D.			
Civil No. 80-0582, USDC			
Amount of Stipulated			
Judgment:	\$ 45,000.00		
Interest at 10%			
from 8/5/86	4,450.69	\$	49,450.69
DOE v. Mr. and Mrs. A.			
Civil No. 86-0028, USDC			
Amount of Stipulated			
Judgment:	\$ 13,000.00		
Interest at 6.03%			
from 4/16/87	170.53	\$	13,170.53
Fernandez v. City & County			
Civil No. 83288, First Circuit.			



**ACT 215**

Amount of Settlement:		\$	5,000.00
No interest			
Fiedler v. Department of Health			
Civil No. 70405, First Circuit			
Amount of Settlement:		\$	5,000.00
No interest			
Hogg v. DOT			
Civil No. 85-2622, First Circuit			
Amount of Settlement:		\$	8,000.00
No interest			
Galapir v. Ramil			
Civil No. 85-0956, First Circuit			
Amount of Settlement:		\$	10,000.00
No interest			
Ishikawa v. Rafael			
Civil No. 81-646, First Circuit			
Amount of Settlement:		\$	235,000.00
No interest			
Kahla v. State			
Civil No. 85-0037, Fifth Circuit			
Amount of Settlement:		\$	8,000.00
No interest			
Kai v. State			
Civil No. 86-4553, First Circuit			
Amount of Settlement:		\$	20,000.00
No interest			
Kang v. Malibu Grand Prix			
Civil No. 85-2573, First Circuit			
Amount of Settlement:		\$	50,000.00
No interest			
Lambayan v. DOE			
Civil No. 81-0410, USDC			
Amount of Settlement:	\$ 3,750.00		
Interest at 5.79%			
from 12-4-86	142.77	\$	3,892.77
Libertarian Party v. Waihee			
Civil No. 86-0439, USDC Hawaii			
Amount of Stipulated			
Judgment:	\$ 4,604.00		
Interest at 5.77%			
from 11-26-86	180.50	\$	4,784.50
Limperos v. State			
Civil No. 7883(1), Second Circuit			
Amount of Settlement:		\$	75,000.00
No interest			
Lovato v. State			
Civil No. 5951(1), Second Circuit			
Amount of Settlement:		\$	110,000.00
No interest			
Madigan v. State			
Civil No. 5567, Second Circuit			
Amount of Judgment:	\$ 142,200.00		
Interest at 4% from			
3-17-86	7,822.95		
Costs:	2,303.64	\$	152,326.59
Mariano v. State			

## ACT 215

Civil No. 85-1269, First Circuit Amount of Settlement: No interest	\$ 36,000.00
McCaffrey, P. v. State Civil No. 84-1758, First Circuit Amount of Settlement: No interest	\$ 200,000.00
Nakagawa v. University of Hawaii Civil No. SCD 87-226, First Circuit Amount of Settlement: No interest	\$ 2,500.00
Neil v. Wells Civil No. 85-0990, First Circuit Amount of Settlement: No interest	\$ 10,000.00
Nuesca v. State Civil No. 85-4246, First Circuit Amount of Settlement: No interest	\$ 28,000.00
Pacific Poultry v. State Civil No. 84-0995, First Circuit Amount of Settlement: No interest	\$ 75,000.00
Park v. City and County Civil No. 45301, First Circuit Amount of Settlement: No interest	\$ 35,000.00
Rabe v. State Civil No. 84-1541, First Circuit Amount of Settlement: No interest	\$ 60,000.00
Ramelb v. State Civil No. 83227, First Circuit Amount of Settlement: No interest	\$ 97,500.00
Roe v. Wong Civil No. 83294, First Circuit Amount of Settlement: No interest	\$ 125,000.00
Rudolph v. State Civil No. 85-2889, First Circuit Amount of Settlement: No interest	\$ 8,000.00
Sammis v. State Civil No. 84-2126, First Circuit Amount of Settlement: No interest	\$ 60,000.00
Sasaki v. Americana Hotels Civil No. 84-0870, First Circuit Amount of Settlement: No interest	\$ 5,000.00
Schmidt v. State Civil No. 9406, Third Circuit Amount of Settlement: No interest	\$ 10,000.00

**ACT 215**

Schoolcraft v. State Civil No. 7030(1), Second Circuit Amount of Settlement: No interest	\$ 25,000.00
Sholtes v. Fuentes Civil No. 80176, First Circuit Amount of Settlement: No interest	\$ 15,893.41
Siu v. Tokushima Civil No. 82962, First Circuit Amount of Settlement: No interest	\$ 12,000.00
Smylie v. State No. 10732, Supreme Court Amount of Settlement: \$ 23,000.00 Interest at 4% from 5-15-86: 1,116.61	\$ 24,116.61
Sotelo v. State Civil No. 85-1136, First Circuit Amount of Settlement: No interest	\$ 130,000.00
Suwa v. Lee Civil No. 79863, First Circuit Amount of Settlement: No interest	\$ 10,000.00
Takiguchi v. State Civil No. 85-0110, Fifth Circuit Amount of Settlement: No interest	\$ 2,500.00
Walsh v. State Criminal No. 85-1539, District Court of the First Circuit Amount of Settlement: \$ 4,114.96 Interest: 145.48	\$ 4,260.44
Welter v. Toyota Civil No. 81082, First Circuit Amount of Settlement: No interest	\$ 650,000.00
White v. State Civil No. 1407, Fifth Circuit Amount of Settlement: No interest	\$ 80,000.00
Winter v. State Civil No. 87-0684-03, First Circuit Amount of Settlement: No interest	\$ 20,000.00
Yamashita v. State Civil No. 77954, First Circuit Amount of Settlement: No interest	\$ 15,000.00
Zack v. Amfac Civil No. 7598(2), Second Circuit Amount of Settlement: No interest	\$ 30,000.00
Zukeran v. City Civil No. 84-0031, First Circuit	

## ACT 215

Amount of Settlement: \$ 5,000.00  
No interest

### MISCELLANEOUS CLAIMS

Ethel Mae K. Pakele \$ 4.85  
Richard Yanagida \$ 434.30

SECTION 2. The sums hereinabove appropriated shall be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in the several amounts hereinabove set forth upon warrants issued by the comptroller of the State: (1) upon vouchers approved by the director of taxation as to claims for overpayment of taxes and (2) upon vouchers approved by the attorney general as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State and settlements of claims, payment of interest, at the rate stated above, shall be limited to the period from the date of judgment or settlement, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases where judgment or settlement was based on chapter 662, Hawaii Revised Statutes.

SECTION 4. All unexpended and unencumbered balances of the appropriations made by section 1 of this Act as of the close of business on June 30, 1988, shall lapse into the general fund of the State.

SECTION 5. To provide for the payment of a settlement agreement negotiated by the State of Hawaii in Moseman Construction Company v. State of Hawaii, First Circuit Civil No. 85-1226, there is appropriated a sum not to exceed ~~\$2,640,000.00~~<sup>1</sup> out of general obligation bond funds of the State of Hawaii for fiscal year 1987-1988, with debt service to be paid out of the state highway fund. This appropriation shall be used for settlement of the pending claims involving the highway construction project, Wilson Bridge and Approaches, District of Wahiawa, Island of Oahu, Federal Aid Project No. BRF-BR-080-1(7).

The Moseman suit seeks damages of more than \$4,000,000. The claims are grounded on a contract awarded to Moseman Construction Co., by the state department of transportation for a federal-aid highway construction project on Oahu.

The departments of the attorney general and of transportation have evaluated the claims and consider the settlement to be in the best interest of the State. The evaluation included considerations of the projected cost of defending the claims and the potential exposure to liability.

SECTION 6. The sum appropriated in section 5 of this Act shall be expended by the department of transportation for the purposes of this Act.

SECTION 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act shall be severable.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 22, 1987.)

#### Note

1. Item vetoed and initialed "JW"

A Bill for an Act Relating to the State Budget.

*Be it Enacted by the Legislature of the State of Hawaii:*

**PART I. GENERAL PROVISIONS**

**SECTION 1. SHORT TITLE.** This Act shall be known and may be cited as the General Appropriations Act of 1987.

**SECTION 2. DEFINITIONS.** Unless otherwise clear from the context, as used in this Act:

(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the organization responsible for carrying out the program, followed by the organization number for the program.

(b) "Expending agency" means the executive department, independent commission, bureau, office, board, or other establishment of the state government (other than the legislature, Office of Hawaiian Affairs, and judiciary), the political subdivision of the State, or any quasi-public institution supported in whole or in part by state funds, which is authorized to expend specified appropriations made by this Act. Abbreviations, where used to denote the expending agency, shall mean the following:

AGR	Department of Agriculture
AGS	Department of Accounting and General Services
ATG	Department of the Attorney General
BUF	Department of Budget and Finance
CCA	Department of Commerce and Consumer Affairs
DEF	Department of Defense
EDN	Department of Education
GOV	Office of the Governor
HHL	Department of Hawaiian Home Lands
HTH	Department of Health
LBR	Department of Labor and Industrial Relations
LNR	Department of Land and Natural Resources
LTG	Office of the Lieutenant Governor
PED	Department of Planning and Economic Development
PER	Department of Personnel Services
SOC	Department of Social Services and Housing
TRN	Department of Transportation
TAX	Department of Taxation
UOH	University of Hawaii
COH	County of Hawaii
CCH	City and County of Honolulu
COM	County of Maui
COK	County of Kauai

(c) "Source of funding" means the source from which funds are appropriated, or authorized, as the case may be, to be expended for the programs and projects specified in the Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meaning:

- A general fund
- B special funds
- C general obligation bond fund

**ACT 216**

- D general obligation bond fund with debt service cost to be paid from special funds
- E revenue bond funds
- J federal aid interstate funds
- K federal aid primary funds
- L federal aid secondary funds
- M federal aid urban funds
- N other federal funds
- R private contributions
- S county funds
- T trust funds
- U interdepartmental transfers
- W revolving funds
- X other funds

(d) "Position ceiling" means the maximum number of permanent positions that an expending agency is authorized for a particular program during a specified period or periods, as denoted by an asterisk.

(e) "Capital project number" means the official number of the capital project, as assigned by the responsible organization.

**PART II. PROGRAM APPROPRIATIONS**

**SECTION 3. APPROPRIATIONS.** The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated or authorized, as the case may be, from the sources of funding specified to the expending agencies designated for the fiscal biennium beginning July 1, 1987, and ending June 30, 1989. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the number indicated for each year, except as provided elsewhere in this Act.

**PROGRAM APPROPRIATIONS**

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F

**A. ECONOMIC DEVELOPMENT**

**1. PED102 - COMMERCE AND INDUSTRY**

			29.00*	29.00*
OPERATING	PED	10,660,462A		4,619,656A
	PED	2,400,000W		2,400,000W
INVESTMENT CAPITAL	AGS	478,000A		A
	AGS	7,597,000C		C
	LNR	50,000C		C
	PED	3,674,000C		800,000C
	UOH	75,000C		C

**2. PED113 - STATE TOURISM OFFICE**

			3.00*	3.00*
OPERATING	PED	15,680,351A		9,625,119A
	PED	1,400,000R		1,500,000R
	PED	100,000X		100,000X

**3. PED107 - FOREIGN TRADE ZONE SERVICES**

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	PED	24.00*		24.00*	
				1,383,980B		1,413,524B	
4.		AGR101 - FINANCIAL ASSISTANCE FOR AGRICULTURE					
		OPERATING	AGR	15.00*		15.00*	
			AGR	750,359B		759,154B	
				2,250,000W		2,250,000W	
5.		AGR103 - PRICE & PRODUCTION CONTROLS FOR DAIRY PRDTS					
		OPERATING	AGR	6.00*		6.00*	
				176,110A		176,836A	
6.		AGR121 - PLANT QUARANTINE					
		OPERATING	AGR	51.90*		51.90*	
		INVESTMENT CAPITAL	AGS	1,274,709A		1,284,979A	
				125,000C		C	
7.		AGR122 - PLANT PEST CONTROL					
		OPERATING	AGR	32.10*		32.10*	
				1,278,284A		1,280,099A	
8.		AGR131 - ANIMAL QUARANTINE					
		OPERATING	AGR	40.00*		40.00*	
			AGR	1,395,679A		1,429,522A	
		INVESTMENT CAPITAL	AGS	85,276U		85,276U	
				180,000C		C	
9.		AGR132 - ANIMAL DISEASE CONTROL					
		OPERATING	AGR	23.50*		23.50*	
			AGR	929,360A		913,851A	
		INVESTMENT CAPITAL	AGS	42,615T		44,320T	
				261,000C		C	
10.		LNR172 - FORESTRY - PRODUCTS DEVELOPMENT					
		OPERATING	LNR	24.00*		24.00*	
			LNR	738,780A		753,217A	
				103,544N		103,544N	
11.		AGR151 - DISTRIBUTION SYSTEMS IMPROVEMENT FOR AGR					
		OPERATING	AGR	38.00*		39.00*	
			AGR	2,109,053A		1,821,728A	
			AGR	424,883B		425,500B	
			AGR	11,334N		11,532N	
		INVESTMENT CAPITAL	AGS	675,000A		A	
			AGS	106,000C		C	
12.		AGR189 - DATA COLLECTION FOR AGR					

**ACT 216**

**PROGRAM APPROPRIATIONS**

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		OPERATING	AGR	12.00* 442,491A	12.00* 455,159A
13.		AGR192 - GENERAL ADMINISTRATION FOR AGR			
		OPERATING	AGR	37.00* 1,261,708A	37.00* 1,237,380A
		INVESTMENT CAPITAL	AGS	1,551,000C	C
14.		AGR102 - FINANCIAL ASSISTANCE FOR AQUACULTURE			
		OPERATING	AGR	80,000W	80,000W
15.		LNR153 - COMMERCIAL FISHERY AND AQUACULTURE			
		OPERATING	LNR	21.00* 2,178,991A	21.00* 1,841,815A
		INVESTMENT CAPITAL	LNR	165,940N 125,000C	165,940N C
16.		PED120 - ENERGY DEVELOPMENT AND MANAGEMENT			
		OPERATING	PED	10.00* 1,227,857A	10.00* 1,039,884A
			PED	563,000B	583,000B
			PED	490,000N	490,000N
		INVESTMENT CAPITAL	AGS	475,000A	125,000A
			PED	1,010,000C	1,640,000C
17.		LNR141 - WATER DEVELOPMENT & IRRIGATION SERVICES			
		OPERATING	LNR	18.00* 737,052A	18.00* 628,704A
		INVESTMENT CAPITAL	LNR	320,000B A	320,000B 5,180,000A
			LNR	14,770,000C	1,990,000C
18.		PED130 - ECON PLANNING & RESEARCH FOR ECON DEVPMT			
		OPERATING	PED	17.00* 751,333A	17.00* 763,423A
19.		PED142 - GENERAL SUPPORT FOR ECONOMIC DEVELOPMENT			
		OPERATING	PED	28.00* 1,508,762A	28.00* 1,278,919A

**B. EMPLOYMENT**

- 1. LBR111 - PLACEMENT SERVICES



## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	LBR	3.00*		3.00*	
				69,272A		69,769A	
			LBR	135.50*		135.50*	
				7,489,049N		7,595,233N	
2.		LBR123 - APPRENTICESHIP & OTHER TRAINING PROGRAMS					
		OPERATING	LBR	7.00*		7.00*	
				188,126A		186,095A	
3.		LBR131 - EMPLOYMENT AND TRAINING PROGRAMS					
		OPERATING	LBR	680,205A		459,640A	
			LBR	15.00*		15.00*	
				10,667,017N		11,073,740N	
4.		LBR135 - COMMISSION ON EMPLOYMENT & HUMAN RESOURCES					
		OPERATING	LBR	5.00*		5.00*	
			LBR	180,577A		180,647A	
			LBR	135,000N		135,000N	
5.		LBR136 - TRANSITION CENTER					
		OPERATING	LBR	960,054A		938,152A	
6.		LBR143 - OCCUPATIONAL SAFETY & HEALTH					
		OPERATING	LBR	50.50*		50.50*	
			LBR	1,394,420A		1,404,001A	
			LBR	29.50*		29.50*	
			LBR	1,136,987N		1,148,234N	
7.		LBR152 - WAGE STANDARDS & FAIR EMPLOYMENT PRACTICES					
		OPERATING	LBR	29.00*		29.00*	
			LBR	841,252A		843,479A	
			LBR	45,000N		45,000N	
8.		LBR161 - PUBLIC AND PRIVATE EMPLOYMENT					
		OPERATING	LBR	3.00*		3.00*	
				528,902A		536,196A	
9.		LBR171 - UNEMPLOYMENT COMPENSATION					
		OPERATING	LBR	2,101,715A		2,201,801A	
			LBR	73,066,000B		83,666,000B	
			LBR	279.85*		279.85*	
			LBR	9,134,332N		9,137,132N	
10.		LBR183 - DISABILITY COMPENSATION					
		OPERATING	LBR	122.00*		122.00*	
				3,220,955A		3,295,059A	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
			LBR	8,537,500B		9,037,500B	
11.		SOC802 - VOCATIONAL REHABILITATION					
		OPERATING	SOC	32.70*		32.70*	
			SOC	2,766,400A		2,812,877A	
			SOC	618,306B		643,657B	
			SOC	93.30*		93.30*	
			SOC	3,777,355N		3,831,172N	
12.		LBR901 - DLIR-DATA GATHERING, RESEARCH AND ANALYSIS					
		OPERATING	LBR	12.40*		12.40*	
			LBR	830,657A		843,341A	
			LBR	26.60*		26.60*	
			LBR	1,303,003N		1,318,635N	
13.		LBR902 - GENERAL ADMINISTRATION					
		OPERATING	LBR	26.20*		26.20*	
			LBR	769,301A		699,718A	
			LBR	38.30*		38.30*	
			LBR	1,729,246N		1,748,732N	
14.		LBR903 - OFFICE OF COMMUNITY SERVICES					
		OPERATING	LBR	7.00*		7.00*	
			LBR	3,812,801A <sup>1</sup>		3,680,114A <sup>1</sup>	
			LBR	3,554,467A		3,531,114A	
			LBR	3.00*		3.00*	
			LBR	3,705,805N		3,705,805N	
15.		LBR812 - LABOR & INDUSTRIAL RELATIONS AP-PEALS BOARD					
		OPERATING	LBR	9.00*		9.00*	
			LBR	425,119A		429,366A	
<b>C. TRANSPORTATION FACILITIES</b>							
1.		TRN102 - HIA FACILITIES & SVCS					
		OPERATING	TRN	483.00*		483.00*	
		INVESTMENT CAPITAL	TRN	39,636,443B		36,190,076B	
			TRN	15,000,000B		15,000,000B	
			TRN	75,810,000E		49,850,000E	
			TRN	2,200,000N		1,500,000N	
2.		TRN104 - GENERAL AVIATION FACILITIES AND SERVICES					
		OPERATING	TRN	2.00*		2.00*	
			TRN	201,428B		184,400B	
3.		TRN111 - GENERAL LYMAN FIELD FACILITIES & SERVICES					
				74.00*		74.00*	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	TRN	4,757,356B			4,419,460B
4.	TRN114	KE-AHOLE AIRPORT FACILITIES AND SERVICES					
		OPERATING	TRN	56.00*			56.00*
		INVESTMENT CAPITAL	AGS	3,299,199B			3,482,717B
			TRN	250,000C			C
			TRN	7,600,000E			5,000,000E
			TRN	500,000N			N
5.	TRN116	WAIMEA-KOHALA AIRPORT FACILITIES & SERVICES					
		OPERATING	TRN	2.00*			2.00*
				349,277B			162,200B
6.	TRN118	UPOLU AIRPORT FACILITIES & SERVICES					
		OPERATING	TRN	63,296B			12,291B
7.	TRN131	KAHULUI AIRPORT FACILITIES AND SERVICES					
		OPERATING	TRN	79.00*			79.00*
		INVESTMENT CAPITAL	TRN	4,357,528B			4,220,074B
			TRN	3,000,000B			5,000,000B
			TRN	8,050,000E			19,300,000E
			TRN	1,000,000N			1,000,000N
8.	TRN133	HANA AIRPORT FACILITIES AND SERVICES					
		OPERATING	TRN	1.00*			1.00*
				226,937B			166,846B
9.	TRN141	MOLOKAI AIRPORT FACILITIES AND SERVICES					
		OPERATING	TRN	7.00*			7.00*
		INVESTMENT CAPITAL	TRN	784,176B			613,041B
			TRN	1,400,000E			800,000E
10.	TRN143	KALAUPAPA AIRPORT FACILITIES AND SERVICES					
		OPERATING	TRN	1.00*			1.00*
				80,048B			30,420B
11.	TRN151	LANAI AIRPORT FACILITIES AND SERVICES					
		OPERATING	TRN	3.00*			3.00*
				363,261B			209,791B
12.	TRN161	LIHUE AIRPORT FACILITIES AND SERVICES					

**ACT 216**

**PROGRAM APPROPRIATIONS**

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING		72.00*		72.00*	
		INVESTMENT CAPITAL	TRN	4,595,319B		4,594,303B	
			TRN	2,600,000E		3,700,000E	
			TRN	200,000N			N
13.	TRN163	- PORT ALLEN AIRPORT FACILITIES AND SERVICES					
		OPERATING	TRN	682B		710B	
		INVESTMENT CAPITAL	TRN			890,000E	
			TRN			100,000N	
14.	TRN195	- AIR TRANSPORTATION FACILITIES & SVCS SUPPORT					
		OPERATING	TRN	79,000A			A
			TRN	65.00*		65.00*	
		INVESTMENT CAPITAL	TRN	67,657,369B		73,302,870B	
			TRN	1,000,000B		500,000B	
			TRN	9,250,000E		4,400,000E	
			TRN	1,100,000N		500,000N	
15.	TRN301	- HONOLULU HARBOR FACILITIES AND SERVICES					
		OPERATING	TRN	129.00*		129.00*	
		INVESTMENT CAPITAL	TRN	8,416,743B		8,703,561B	
			TRN	360,000B		455,000B	
			TRN	500,000C			C
			TRN	3,723,000E		1,120,000E	
16.	TRN303	- BARBERS POINT HARBOR FACILITIES AND SERVICES					
		OPERATING	TRN	2.00*		2.00*	
		INVESTMENT CAPITAL	TRN	162,278B		189,714B	
			TRN			300,000B	
17.	TRN305	- KEWALO BASIN FACILITIES AND SERVICES					
		OPERATING	TRN	3.00*		3.00*	
		INVESTMENT CAPITAL	TRN	416,250B		439,033B	
			TRN	1,490,000C			C
18.	TRN311	- HILO HARBOR FACILITIES AND SERVICES					
		OPERATING	TRN	10.00*		10.00*	
		INVESTMENT CAPITAL	TRN	858,324B		875,440B	
			TRN	310,000B			B
19.	TRN313	- KAWAIHAE HARBOR FACILITIES AND SERVICES					
		OPERATING	TRN	4.00*		4.00*	
		INVESTMENT CAPITAL	TRN	313,191B		314,757B	
			TRN	825,000B			B
			TRN			4,350,000E	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
20.	TRN331	KAHULUI HARBOR FACILITIES AND SERVICES					
		OPERATING	TRN	13.00*		13.00*	
		INVESTMENT CAPITAL	TRN	911,410B		886,593B	
				240,000B		1,000,000B	
21.	TRN341	KAUNAKAKAI HARBOR FACILITIES AND SERVICES					
		OPERATING	TRN	1.00*		1.00*	
				113,338B		114,396B	
22.	TRN361	NAWILIWILI HARBOR FACILITIES AND SERVICES					
		OPERATING	TRN	11.50*		11.50*	
		INVESTMENT CAPITAL	TRN	658,025B		642,126B	
			TRN	430,000B		900,000B	
			TRN	E		3,000,000E	
23.	TRN363	PORT ALLEN HARBOR FACILITIES AND SERVICES					
		OPERATING	TRN	1.00*		1.00*	
				144,273B		144,786B	
24.	TRN395	WATER TRANSPORTATION FAC & SVCS SUPPORT					
		OPERATING	TRN	52.00*		52.00*	
		INVESTMENT CAPITAL	TRN	15,941,763B		16,764,287B	
			TRN	375,000B		130,000B	
			TRN	1,255,000E		E	
25.	TRN501	OAHU HIGHWAYS AND SERVICES					
		OPERATING	TRN	219.00*		219.00*	
		INVESTMENT CAPITAL	TRN	18,973,299B		19,305,019B	
			TRN	375,000B		380,000B	
			TRN	1,250,000C		C	
			TRN	20,832,000D		17,808,000D	
			TRN	69,069,000J		94,024,000J	
			TRN	15,182,000K		10,226,000K	
			TRN	1,676,000L		L	
			TRN	3,900,000N		N	
26.	TRN511	HAWAII HIGHWAYS AND SERVICES					
		OPERATING	TRN	110.00*		110.00*	
		INVESTMENT CAPITAL	TRN	6,921,866B		7,573,881B	
			TRN	188,000B		188,000B	
			TRN	564,000D		4,898,000D	
			TRN	674,000L		5,544,000L	
			TRN	N		4,500,000N	
27.	TRN531	MAUI HIGHWAYS AND SERVICES					
				54.00*		54.00*	

**ACT 216**

**PROGRAM APPROPRIATIONS**

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	TRN	4,300,798	B	4,748,675	B
		INVESTMENT CAPITAL	TRN	726,000	B	726,000	B
			TRN	200,000	C		C
			TRN	6,849,000	D	4,222,000	D
			TRN	11,206,000	K	6,536,000	K
			TRN	2,755,000	N	2,400,000	N
28. TRN541 - MOLOKAI HIGHWAYS AND SERVICES							
				12.00*		12.00*	
		OPERATING	TRN	1,354,156	B	1,369,117	B
		INVESTMENT CAPITAL	TRN	60,000	B	600,000	B
			TRN	96,000	D		D
			TRN	289,000	N		N
29. TRN551 - LANAI HIGHWAYS AND SERVICES							
				3.00*		3.00*	
		OPERATING	TRN	387,856	B	405,290	B
		INVESTMENT CAPITAL	TRN		B	33,000	B
30. TRN561 - KAUAI HIGHWAYS AND SERVICES							
				41.00*		41.00*	
		OPERATING	TRN	3,582,823	B	3,166,105	B
		INVESTMENT CAPITAL	TRN	160,000	B	202,000	B
			TRN	420,000	D	2,086,000	D
			TRN	305,000	K	2,291,000	K
			TRN	101,000	N	2,600,000	N
31. TRN595 - LAND TRANSPORTATION FAC & SVCS SUPPORT							
				49.00*		49.00*	
		OPERATING	TRN	32,420,572	B	33,549,414	B
		INVESTMENT CAPITAL	TRN	867,000	B	816,000	B
			TRN	1,525,000	D	1,325,000	D
			TRN	3,325,000	N	3,225,000	N
32. TRN597 - SAFETY ADMINISTRATION OF LAND TRANSPORTATION							
				21.50*		21.50*	
		OPERATING	TRN	706,339	B	711,827	B
				4.50*		4.50*	
			TRN	157,707	N	158,619	N
33. TRN995 - OVERALL PROGRAM SUPPORT FOR TRANS FAC & SVCS							
				84.00*		84.00*	
		OPERATING	TRN	4,106,151	B	4,166,337	B
<b>D. ENVIRONMENTAL PROTECTION</b>							
1. HTH840 - SOLIDS, LIQUIDS, GASES, AND NOISE							
				50.50*		50.50*	
		OPERATING	HTH	1,653,488	A	1,675,441	A

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
				10.00*	10.00*
		INVESTMENT CAPITAL	HTH	1,041,255N	1,088,268N
			HTH	A	5,500,000A
			HTH	2,600,000C	C
2.	AGR846	PESTICIDES			
		OPERATING	AGR	19.00* 491,939A	19.00* 474,040A
3.	LNR401	AQUATIC RESOURCES			
		OPERATING	LNR	24.00* 722,980A	24.00* 692,510A
			LNR	85,604N	85,817N
4.	LNR402	FORESTS AND WILDLIFE RESOURCES			
		OPERATING	LNR	58.00* 1,664,037A	58.00* 1,600,053A
		INVESTMENT CAPITAL	LNR	381,689N	380,189N
			LNR	1,843,000C	599,000C
5.	LNR403	MINERAL RESOURCES			
		OPERATING	LNR	3.00* 84,544A	3.00* 85,053A
6.	LNR404	WATER RESOURCES			
		OPERATING	LNR	13.00* 997,968A	13.00* 1,002,579A
		INVESTMENT CAPITAL	LNR	1,750,000C	800,000C
7.	LNR405	CONSERVATION & RESOURCES EN-FORCEMENT			
		OPERATING	LNR	79.00* 2,458,561A	79.00* 2,435,634A
			LNR	29,922N	30,193N
8.	TRN903	COASTAL AREAS			
		OPERATING	TRN	14,695A	15,297A
9.	HTH850	POLICY DVLPMENT,COORD & ANLYS FOR NAT P ENVR			
		OPERATING	HTH	11.00* 450,817A	11.00* 353,763A
10.	LNR906	LNR-NATURAL PHYSICAL ENVIRON-MENT			
		OPERATING	LNR	35.50* 1,460,575A	35.50* 1,484,234A
			LNR	28,807N	29,600N
			LNR	50,000R	50,000R

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
11. HTH849 - HTH-NATURAL PHYSICAL ENVIRONMENT					
		OPERATING	HTH	14.50* 839,991A	14.50* 854,824A
			HTH	2.50* 161,581N	2.50* 171,114N
E. HEALTH					
1. HTH101 - TUBERCULOSIS					
		OPERATING	HTH	46.00* 1,466,712A	46.00* 1,481,942A
			HTH	64,799N	64,799N
2. HTH111 - HANSEN'S DISEASE					
		OPERATING	HTH	73.00* 3,534,492A	73.00* 3,619,432A
			HTH	165,000B	170,000B
		INVESTMENT CAPITAL	HTH	452,656N	456,389N
			AGS	539,000C	C
3. HTH121 - SEXUALLY TRANSMITTED DISEASES					
		OPERATING	HTH	10.00* 701,377A	10.00* 708,661A
			HTH	4.00* 514,921N	4.00* 522,851N
4. HTH131 - OTHER COMMUNICABLE DISEASES					
		OPERATING	HTH	10.00* 783,331A	10.00* 700,099A
			HTH	1.00* 166,209N	1.00* 166,209N
5. HTH139 - SUPPORTING SERVICES FOR COMMUN DISEASES					
		OPERATING	HTH	8.00* 245,876A	8.00* 235,167A
6. HTH141 - DENTAL DISEASES					
		OPERATING	HTH	43.60* 987,176A	43.60* 1,003,055A
7. HTH151 - CHRONIC DISEASES					
		OPERATING	HTH	5.00* 851,766A <sup>1</sup>	5.00* 820,942A
				801,766A	
8. HTH160 - NUTRITION SERVICES					
		OPERATING	HTH	9.75* 246,877A	9.75* 258,043A



## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
			HTH	7.00* 5,998,158N	7.00* 6,510,059N
9.		HTH170 - EMERGENCY MEDICAL SERVICES			
		OPERATING	HTH	10.00* 15,741,066A	10.00* 16,286,728A
			HTH	210,515N	210,515N
10.		HTH185 - FAMILY PLANNING			
		OPERATING	HTH	5.00* 692,355A	5.00* 697,127A
			HTH	6.00* 1,016,115N	6.00* 1,041,986N
11.		HTH191 - SCHOOL HEALTH SERVICES			
		OPERATING	HTH	353.25* 6,013,528A	353.25* 6,042,199A
			HTH	2.00* 74,742N	2.00* 74,742N
12.		HTH801 - HEALTH CARE SERVICES			
		OPERATING	HTH	37.00* 2,643,504A	37.00* 2,695,831A
			HTH	44.00* 1,731,274N	44.00* 1,732,413N
13.		HTH211 - HILO HOSPITAL			
		OPERATING	HTH	314,062A 554.20*	130,373A 554.20*
		INVESTMENT CAPITAL	HTH AGS	21,806,221B 1,628,000C	22,070,010B C
14.		HTH212 - HONOKAA HOSPITAL			
		OPERATING	HTH	629,073A 45.00*	588,347A 45.00*
		INVESTMENT CAPITAL	HTH AGS	1,262,000B 300,000C	1,288,000B C
15.		HTH213 - KA'U HOSPITAL			
		OPERATING	HTH	591,196A 32.00*	590,832A 32.00*
		INVESTMENT CAPITAL	HTH AGS	656,600B 157,000C	680,384B C
16.		HTH214 - KOHALA HOSPITAL			
		OPERATING	HTH	626,319A 36.50*	638,513A 36.50*
			HTH	830,775B	830,775B
17.		HTH215 - KONA HOSPITAL			

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	HTH	2,048,480A		2,354,587A	
				197.00*		197.00*	
		INVESTMENT CAPITAL	HTH AGS	6,593,021B		6,593,021B	C
				260,000C			
18.	HTH221	- MAUI MEMORIAL HOSPITAL					
		OPERATING	HTH	461.00*		461.00*	
		INVESTMENT CAPITAL	HTH AGS	20,169,275B		20,242,970B	
				454,000C		11,792,000C	
19.	HTH222	- HANA MEDICAL CENTER					
		OPERATING	HTH	357,973A		367,486A	
				7.00*		7.00*	
			HTH	123,561B		123,561B	
20.	HTH223	- KULA HOSPITAL					
		OPERATING	HTH	1,041,355A		1,016,116A	
				176.00*		176.00*	
			HTH	4,301,785B		4,301,785B	
21.	HTH224	- LANAI HOSPITAL					
		OPERATING	HTH	98,058A		102,213A	
				22.00*		22.00*	
		INVESTMENT CAPITAL	HTH AGS	745,000B		745,000B	C
				50,000C			
22.	HTH231	- KAUAI VETERANS MEMORIAL HOSPITAL					
		OPERATING	HTH	1,511,821A		1,470,828A	
				128.00*		128.00*	
		INVESTMENT CAPITAL	HTH AGS AGS	3,572,700B		3,572,700B	
				A		2,000,000A	
				690,000C		C	
23.	HTH232	- SAMUEL MAHELONA MEMORIAL HOSPITAL					
		OPERATING	HTH	667,586A		659,571A	
				145.00*		145.00*	
		INVESTMENT CAPITAL	HTH AGS	3,449,223B		3,449,223B	
				50,000C		C	
24.	HTH241	- MALUHIA HOSPITAL					
		OPERATING	HTH	902,283A		920,003A	
				187.00*		187.00*	
		INVESTMENT CAPITAL	HTH AGS AGS	4,722,614B		4,721,964B	
				A		954,000A	
				426,000C		C	
25.	HTH242	- LEAHI HOSPITAL					
		OPERATING	HTH	3,013,270A		2,469,103A	
				291.00*		291.00*	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		INVESTMENT CAPITAL	HTH AGS AGS	6,058,888B 25,000A 125,000C	6,964,839B 159,000A C
26.	HTH401	COMMUNITY BASED SERVICES FOR MH			
		OPERATING	HTH	307.00* 18,571,312A <sup>1</sup> 18,106,312A 3.00*	307.00* 18,523,694A <sup>1</sup> 18,074,694A 3.00*
			HTH	2,800,999N	2,800,999N
27.	HTH430	HAWAII STATE HOSPITAL			
		OPERATING	HTH	445.00*	440.00*
		INVESTMENT CAPITAL	AGS	11,361,363A 15,000,000C	11,259,983A C
28.	HTH495	GENERAL SUPPORT FOR MH			
		OPERATING	HTH	32.00* 1,256,589A 1.00*	32.00* 1,274,141A 1.00*
			HTH	521,884N	521,884N
29.	HTH500	IDENTIFICATION, EVALUATION & TREATMT FOR DD			
		OPERATING	HTH	66.25* 3,207,045A	66.25* 3,243,004A
30.	HTH501	COMMUNITY BASED SERVICES FOR DD			
		OPERATING	HTH	62.00* 4,580,534A	62.00* 4,921,068A
31.	HTH511	WAIMANO TRAINING SCHOOL AND HOSPITAL			
		OPERATING	HTH	475.00* 14,723,359A	475.00* 15,144,538A
		INVESTMENT CAPITAL	HTH AGS	5,944,348X 341,000C	5,266,511X C
32.	HTH601	VECTOR CONTROL			
		OPERATING	HTH	87.00* 1,944,513A 2.00*	87.00* 1,962,018A 2.00*
			HTH	42,838X	45,266X
33.	HTH611	SANITATION & SUBSTANCE CONTROL			
		OPERATING	HTH	89.50* 2,263,092A	89.50* 2,280,504A
34.	HTH621	DRINKING WATER QUALITY			

ACT 216

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	HTH	7.00*		15.00*	
				797,317A		708,761A	
			HTH	6.00*		6.00*	
				313,640N		316,573N	
35.		HTH701 - MEDICAL FACILITIES-STDS,INSPECTION,LICENSING					
		OPERATING	HTH	14.50*		14.50*	
				587,056A		601,545A	
			HTH	6.00*		6.00*	
				272,546N		272,546N	
36.		HTH901 - LABORATORY SERVICES					
		OPERATING	HTH	58.00*		58.00*	
		INVESTMENT CAPITAL	AGS	2,014,761A		1,749,828A	
				180,000C		C	
37.		HTH902 - PUBLIC HEALTH NURSING SERVICES					
		OPERATING	HTH	156.00*		156.00*	
				4,298,700A		4,341,896A	
			HTH	4.00*		4.00*	
			HTH	35,000B		35,000B	
				498,442N		498,442N	
38.		HTH903 - RECORDS, DATA COLLECTION AND RE-SEARCH					
		OPERATING	HTH	36.00*		36.00*	
			HTH	1,391,349A		1,418,088A	
				67,000N		67,000N	
39.		HTH908 - HEALTH EDUCATION					
		OPERATING	HTH	30.00*		30.00*	
				983,592A <sup>1</sup>		991,821A <sup>1</sup>	
				917,192A		929,421A	
			HTH	310,651N		310,651N	
40.		HTH906 - COMPREHENSIVE HEALTH PLANNING					
		OPERATING	HTH	8.00*		8.00*	
				383,612A		386,501A	
41.		HTH907 - GENERAL ADMINISTRATION					
		OPERATING	HTH	128.50*		128.50*	
				4,589,311A		4,667,317A	
			HTH	20.00*		20.00*	
				1,532,448B		1,566,821B	
			HTH	5.50*		5.50*	
		INVESTMENT CAPITAL	AGS	380,930N		380,930N	
				250,000C		296,000C	
42.		SUB601 - PRIVATE HOSPITALS & MEDICAL SERVICES					

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		OPERATING	SUB	1,259,043A	1,259,043A
		INVESTMENT CAPITAL	HTH	1,500,000C	C
<b>F. SOCIAL SERVICES</b>					
1. SOC111 - SERVICES TO INDIVIDUALS AND FAMILIES					
		OPERATING	SOC	159.50* 12,720,694A <sup>1</sup> 12,470,694A 204.00*	159.50* 12,739,725A <sup>1</sup> 12,489,725A 204.00*
			SOC	13,193,867N	13,193,867N
			SOC	148,886U	148,886U
2. SOC201 - PAYMNTS TO ASSIST FAMILIES WITH DEPENDNT CHLD					
		OPERATING	SOC	35,706,980A	38,448,523A
			SOC	37,780,779N	40,962,197N
3. SOC202 - PAYMNTS TO ASSIST THE AGED, BLIND & DISABLED					
		OPERATING	SOC	6,004,820A	6,102,300A
4. SOC203 - CHILD FOSTER BOARD PAYMENTS					
		OPERATING	SOC	3,332,844A	3,724,356A
			SOC	77,436N	77,436N
5. SOC204 - OTHER GENERAL ASSISTANCE PAYMENTS					
		OPERATING	SOC	16,957,600A	18,624,800A
6. SOC206 - OTHER FEDERAL ASSISTANCE PAYMENTS					
		OPERATING	SOC	1,921,166N	1,921,166N
7. SOC220 - RENTAL HOUSING AUGMENTATION AND ASSISTANCE					
		OPERATING	SOC	9.00* 2,323,592A 26.50*	9.00* 1,370,545A 26.50*
			SOC	1,452,195B 183.00*	1,485,437B 183.00*
		INVESTMENT CAPITAL	SOC	17,972,426N 2,290,000C	18,235,646N C
8. SOC225 - PRIVATE HOUSING DEVELOPMENT & OWNERSHIP					
		OPERATING	SOC	678,204A <sup>1</sup> 500,000A 15.00*	182,114A <sup>1</sup> 0 15.00*
			SOC	1,619,062B	1,658,862B

ACT 216

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		INVESTMENT CAPITAL	AGS HHA LNR	16,100,000C 1,550,000C 500,000C			C 1,500,000C C
9.		SOC223 - BROADENED HOMESITE OWNERSHIP					
		OPERATING	SOC	1.00* 405,479B			1.00* 416,503B
10.		SOC807 - TEACHER HOUSING					
		OPERATING	SOC	.50* 220,489B			.50* 228,278B
		INVESTMENT CAPITAL	AGS	905,000C			C
11.		SOC229 - HOUSING ASSISTANCE ADMINISTRATION					
		OPERATING	SOC	14.00* 916,799B			14.00* 938,691B
			SOC	12.00* 720,171N			12.00* 729,653N
12.		SOC227 - HOUSING FINANCE PROGRAM					
		OPERATING	SOC	4.00* 594,091B			4.00* 611,358B
13.		SOC230 - HEALTH CARE PAYMENTS					
		OPERATING	SOC	113,928,727A			119,109,476A
			SOC	81,061,884N			84,833,524N
			SOC	6,693,856U			6,961,610U
14.		SUB806 - VETERANS CEMETERIES AND BURIAL PAYMENTS					
		OPERATING	SUB	40,923A			40,923A
15.		SOC236 - ELIGIBILITY DETERMINATION					
		OPERATING	SOC	331.72* 12,878,855A			331.72* 10,417,169A
			SOC	256.78* 16,798,919N			256.78* 11,757,349N
16.		SOC238 - DISABILITY DETERMINATION					
		OPERATING	SOC	51.00* 2,550,337N			51.00* 2,601,690N
17.		ATG500 - CHILD SUPPORT ENFORCEMENT SERVICES					
		OPERATING	ATG	37.35* 1,020,236A			37.35* 1,031,272A
			ATG	50.65* 4,230,531N			50.65* 4,327,246N

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
18.	HHL602	PLANNG, DEV, MGT & GEN SPPT FOR HAWN HMSTDS					
	OPERATING		HHL		*	49.00*	
					A	994,767A	
				98.00*		49.00*	
	INVESTMENT CAPITAL		HHL	3,270,384B		2,775,343B	
			AGS	150,000C			C
			HHL	1,700,000A		850,000A	
			HHL	9,725,000C		7,070,000C	
			HHL	1,225,000D		1,983,000D	
19.	GOV861	PLAN, PRGM DEV & COORD OF SVCS FOR CHD & YTH					
	OPERATING		GOV	11.00*		11.00*	
				382,105A		325,915A	
20.	GOV602	ELDERLY					
	OPERATING		GOV	7.90*		7.90*	
				4,433,241A <sup>1</sup>		4,343,221A <sup>1</sup>	
				4,393,241A		4,303,221A	
				9.10*		9.10*	
			GOV	3,520,825N		3,520,825N	
21.	HTH520	HANDICPPD					
	OPERATING		HTH	2.00*		2.00*	
				241,421A		238,959A	
22.	SOC902	GENERAL SUPPORT FOR HEALTH CARE PAYMENTS					
	OPERATING		SOC	22.87*		22.87*	
				1,858,910A		1,865,939A	
				27.13*		27.13*	
			SOC	2,382,829N		2,392,938N	
23.	SOC903	GENERAL SUPPORT FOR PUBLIC WELFARE					
	OPERATING		SOC	29.44*		29.44*	
				1,923,333A		1,934,732A	
				41.56*		41.56*	
			SOC	3,074,935N		3,080,703N	
24.	SOC904	GENERAL ADMINISTRATION (DSSH)					
	OPERATING		SOC	158.80*		158.80*	
				4,301,382A		4,335,493A	
				18.20*		18.20*	
			SOC	631,443N		631,443N	
<b>G. FORMAL EDUCATION</b>							
1.	EDN105	REGULAR INSTRUCTION PROGRAM					
				6,393.00*		6,461.00*	

ACT 216

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	EDN	186,912,046A		188,982,021A	
			EDN	9,671,712N		9,674,712N	
		INVESTMENT CAPITAL	AGS		A	18,805,000A	
			AGS	39,603,000C		2,573,000C	
2. EDN106 - OTHER REGULAR INSTRUCTION							
				692.50*		692.50*	
		OPERATING	EDN	38,176,524A		37,763,876A	
			EDN	1,585,174B		1,590,943B	
			EDN	1,965,874N		1,573,835N	
3. EDN107 - SPECIAL EDUCATION							
				874.50*		862.50*	
		OPERATING	EDN	25,491,118A		25,403,016A	
			EDN	20,000B		20,000B	
			EDN	4,769,600N		4,769,600N	
		INVESTMENT CAPITAL	AGS		A	9,000,000A	
			AGS	10,000,000C		C	
4. EDN108 - COMPENSATORY EDUCATION							
				96.00*		96.00*	
		OPERATING	EDN	6,994,511A		6,973,007A	
			EDN	9,983,367N		9,983,367N	
5. EDN203 - SCHOOL ADMINISTRATION							
				821.50*		823.50*	
		OPERATING	EDN	25,333,106A		25,837,322A	
6. EDN204 - INSTRUCTIONAL MEDIA							
				263.50*		264.50*	
		OPERATING	EDN	9,151,194A		9,211,705A	
		INVESTMENT CAPITAL	AGS	310,000C		1,300,000C	
7. EDN205 - INSTRUCTIONAL DEVELOPMENT							
				104.00*		104.00*	
		OPERATING	EDN	6,734,360A		6,760,810A	
			EDN	974,681N		975,679N	
8. EDN206 - COUNSELING							
				313.00*		313.00*	
		OPERATING	EDN	10,448,478A		10,462,088A	
9. EDN207 - STUDENT ACTIVITIES							
				69.00*		69.00*	
		OPERATING	EDN	4,377,718A		4,405,014A	
10. EDN208 - PSYCHOLOGICAL & SCHOOL SOCIAL WORK SERVICES							
				247.50*		247.50*	
		OPERATING	EDN	8,682,405A		8,698,805A	



## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
11.		EDN303 - STATE ADMINISTRATION					
		OPERATING	EDN	222.00*		222.00*	
			EDN	14,118,954A		12,181,396A	
				819,153N		819,153N	
12.		EDN304 - DISTRICT ADMINISTRATION					
		OPERATING	EDN	225.00*		225.00*	
		INVESTMENT CAPITAL	AGS	8,419,454A		8,424,567A	
				300,000C		C	
13.		EDN305 - SCHOOL FOOD SERVICES					
		OPERATING	EDN	188.00*		189.00*	
			EDN	10,502,897A		10,504,298A	
			EDN	696.50*		696.50*	
			EDN	12,493,930B		12,682,737B	
			EDN	17,845,215N		18,693,851N	
14.		EDN306 - SAFETY AND SECURITY SERVICES					
		OPERATING	EDN	2,647,167A		2,728,548A	
15.		EDN307 - PHYSICAL PLANT OPERATIONS & MAINTENANCE					
		OPERATING	EDN	1,026.60*		1,032.10*	
				28,355,832A		28,686,428A	
16.		AGS807 - PHYSICAL PLANT OPERATIONS & MAINTENANCE-AGS					
		OPERATING	AGS	241.00*		241.00*	
				31,622,493A		32,256,983A	
17.		AGS808 - STUDENT TRANSPORTATION					
		OPERATING	AGS	9.00*		9.00*	
				19,943,017A		21,132,140A	
18.		EDN406 - ADULT EDUCATION					
		OPERATING	EDN	23.00*		23.00*	
			EDN	3,372,793A		3,077,310A	
			EDN	369,091B		373,149B	
			EDN	527,963N		527,965N	
19.		EDN407 - PUBLIC LIBRARIES					
		OPERATING	EDN	490.55*		490.55*	
			EDN	15,884,754A		15,559,107A	
		INVESTMENT CAPITAL	AGS	572,082N		572,082N	
			AGS	A		700,000A	
			AGS	11,760,000C		154,000C	
20.		UOH101 - INSTRUCTION - UOH, MANOA					
				1,569.71*		1,580.71*	

**ACT 216**

**PROGRAM APPROPRIATIONS**

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	UOH	62,852,698A		63,916,393A	
				6.00*		6.00*	
			UOH	4,537,398B		4,611,050B	
			UOH	277,785N		277,785N	
		INVESTMENT CAPITAL	AGS	5,274,000C		405,000C	
21.		UOH102 - ORGANIZED RESEARCH - UOH, MANOA					
		OPERATING	UOH	564.22*		565.22*	
				26,199,545A		26,496,937A	
				2.00*		4.00*	
			UOH	233,889B		238,362B	
				34.42*		34.42*	
			UOH	1,379,842N		1,399,399N	
			UOH	5,356,357W		5,718,097W	
		INVESTMENT CAPITAL	AGS	9,115,000C		325,000C	
22.		UOH103 - PUBLIC SERVICE - UOH, MANOA					
		OPERATING	UOH	93.41*		93.41*	
				4,025,903A		4,004,046A	
				14.00*		14.00*	
			UOH	2,411,558B		2,471,547B	
				43.64*		43.64*	
			UOH	1,534,110N		1,555,143N	
			UOH	53,808W		55,271W	
23.		UOH104 - ACADEMIC SUPPORT - UOH, MANOA					
		OPERATING	UOH	355.85*		355.85*	
				15,293,543A		15,613,283A	
				9.50*		9.50*	
			UOH	892,346B		908,144B	
				6.00*		6.00*	
			UOH	1,205,690W		1,244,755W	
24.		UOH105 - STUDENT SERVICES - UOH, MANOA					
		OPERATING	UOH	204.75*		204.75*	
				6,927,512A		6,738,347A	
				.25*		.25*	
			UOH	298,559B		309,630B	
			UOH	880,000N		880,000N	
				148.75*		148.75*	
			UOH	35,343,068W		36,521,637W	
		INVESTMENT CAPITAL	AGS	250,000C		C	
25.		UOH106 - INSTITUTIONAL SUPPORT - UOH, MANOA					
		OPERATING	UOH	364.00*		364.00*	
				31,807,634A		31,199,094A	
				13.00*		13.00*	
			UOH	997,658B		949,374B	
				10.00*		10.00*	
			UOH	2,878,288W		2,981,009W	
			AGS	A		4,424,000A	
		INVESTMENT CAPITAL	AGS	2,786,000C		1,617,000C	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
26.		UOH211 - INSTRUCTION - UOH, HILO					
		OPERATING	UOH	216.50*		216.50*	
			UOH	7,961,477A		8,013,220A	
			UOH	481,981B		485,234B	
			UOH	103,223N		103,223N	
		INVESTMENT CAPITAL	UOH	245,773W		255,849W	
			AGS	133,000C		383,000C	
27.		UOH213 - PUBLIC SERVICE - UOH, HILO					
		OPERATING	UOH	81,311A		81,521A	
			UOH	268,200B		281,373B	
28.		UOH214 - ACADEMIC SUPPORT - UOH, HILO					
		OPERATING	UOH	49.00*		49.00*	
			UOH	2,225,111A		2,194,435A	
			UOH	5.00*		5.00*	
			UOH	254,652B		258,651B	
29.		UOH215 - STUDENT SERVICES - UOH, HILO					
		OPERATING	UOH	30.50*		30.50*	
			UOH	1,344,898A		1,353,361A	
			UOH	394,543N		394,543N	
			UOH	6.00*		6.00*	
		INVESTMENT CAPITAL	UOH	2,038,855W		2,113,681W	
			AGS	A		8,000,000A	
30.		UOH216 - INSTITUTIONAL SUPPORT - UOH, HILO					
		OPERATING	UOH	51.00*		51.00*	
			UOH	3,794,825A		3,603,350A	
			UOH	95,257B		98,788B	
			UOH	16,120W		16,781W	
		INVESTMENT CAPITAL	AGS	A		1,272,000A	
			AGS	10,000C		C	
31.		UOH301 - INSTRUCTION - HONOLULU COMMUNITY COLLEGE					
		OPERATING	UOH	134.00*		135.00*	
			UOH	4,951,718A		4,929,147A	
			UOH	180,828N		180,828N	
			UOH	2.00*		2.00*	
		INVESTMENT CAPITAL	UOH	337,220W		348,368W	
			AGS	600,000C		C	
32.		UOH302 - PUBLIC SERVICE - HONOLULU COMMUNITY COLLEGE					
		OPERATING	UOH	8.00*		8.00*	
			UOH	690,299A		694,916A	
			UOH	1.00*		1.00*	
			UOH	271,055B		274,302B	

ACT 216

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
33.	UOH303	ACADEMIC SUPPORT- HONOLULU COMMUNITY COLLEGE					
		OPERATING	UOH	29.00*		29.00*	
				879,967A		892,273A	
34.	UOH304	STUDENT SERVICES- HONOLULU COMMUNITY COLLEGE					
		OPERATING	UOH	26.00*		26.00*	
			UOH	679,639A		681,727A	
			UOH	111,000N		111,000N	
			UOH	47,485W		47,613W	
35.	UOH305	INSTITUTIONAL SUPPORT - HONOLULU CC					
		OPERATING	UOH	42.00*		42.00*	
			UOH	1,537,560A		1,566,127A	
			UOH	51,973B		54,052B	
			UOH	110,473W		114,892W	
36.	UOH311	INSTRUCTION -KAPIOLANI COMMUNITY COLLEGE					
		OPERATING	UOH	129.60*		131.60*	
			UOH	4,920,040A		5,000,679A	
			UOH	88,562N		88,562N	
			UOH	4.00*		4.00*	
		INVESTMENT CAPITAL	AGS	454,534W		468,789W	
			AGS	700,000A		5,709,000A	
			AGS	12,545,000C		C	
37.	UOH312	PUBLIC SERVICE-KAPIOLANI COMMUNITY COLLEGE					
		OPERATING	UOH	2.00*		2.00*	
			UOH	81,344A		81,958A	
			UOH	4.00*		4.00*	
			UOH	1,016,021B		1,030,581B	
38.	UOH313	ACADEMIC SUPPORT-KAPIOLANI COMMUNITY COLLEGE					
		OPERATING	UOH	25.00*		27.00*	
			UOH	813,607A		891,488A	
39.	UOH314	STUDENT SERVICES-KAPIOLANI COMMUNITY COLLEGE					
		OPERATING	UOH	23.00*		23.00*	
			UOH	663,233A		666,589A	
			UOH	91,020N		91,020N	
			UOH	71,316W		73,236W	
40.	UOH315	INSTITUTIONAL SUPPORT - KAPIOLANI CC					
				37.00*		38.00*	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	UOH	1,464,008A		1,531,913A	
			UOH	7,982B		8,301B	
			UOH	97,516W		101,417W	
41.		UOH321 - INSTRUCTION-LEEWARD COMMUNITY COLLEGE					
		OPERATING	UOH	154.50*		154.50*	
			UOH	5,476,195A		5,680,218A	
			UOH	54,561N		54,561N	
			UOH	1.00*		1.00*	
			UOH	199,619W		205,811W	
42.		UOH322 - PUBLIC SERVICE-LEEWARD COMMUNITY COLLEGE					
		OPERATING	UOH	4.50*		4.50*	
			UOH	145,198A		146,483A	
			UOH	1.00*		1.00*	
			UOH	312,250B		317,315B	
43.		UOH323 - ACADEMIC SUPPORT-LEEWARD COMMUNITY COLLEGE					
		OPERATING	UOH	27.00*		27.00*	
			UOH	1,050,423A		1,003,914A	
44.		UOH324 - STUDENT SERVICES-LEEWARD COMMUNITY COLLEGE					
		OPERATING	UOH	34.00*		34.00*	
			UOH	966,808A		970,899A	
			UOH	39,415B		40,184B	
			UOH	125,000N		125,000N	
			UOH	83,680W		85,979W	
45.		UOH325 - INSTITUTIONAL SUPPORT - LEEWARD CC					
		OPERATING	UOH	45.50*		45.50*	
			UOH	1,888,797A		1,929,460A	
46.		UOH331 - INSTRUCTION-WINDWARD COMMUNITY COLLEGE					
		OPERATING	UOH	42.50*		42.50*	
			UOH	1,485,375A		1,495,634A	
			UOH	14,069W		14,632W	
47.		UOH332 - PUBLIC SERVICE-WINDWARD COMMUNITY COLLEGE					
		OPERATING	UOH	2.00*		2.00*	
			UOH	92,455A		93,624A	
			UOH	1.00*		1.00*	
			UOH	151,709B		153,486B	
48.		UOH333 - ACADEMIC SUPPORT-WINDWARD COMMUNITY COLLEGE					

ACT 216

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	UOH	14.00*		14.00*	
				514,835A		524,279A	
49.	UOH334	STUDENT SERVICES-WINDWARD COMMUNITY COLLEGE					
		OPERATING	UOH	13.00*		13.00*	
			UOH	398,928A		400,409A	
			UOH	48,117N		48,117N	
			UOH	27,067W		27,230W	
50.	UOH335	INSTITUTIONAL SUPPORT - WINDWARD CC					
		OPERATING	UOH	16.00*		16.00*	
			UOH	631,597A		641,576A	
			UOH	1.00*		1.00*	
			UOH	67,511W		69,695W	
51.	UOH501	INSTRUCTION-MAUI COMMUNITY COLLEGE					
		OPERATING	UOH	70.00*		70.00*	
			UOH	2,478,490A		2,485,142A	
			UOH	26,090N		26,090N	
			UOH	2.00*		2.00*	
			UOH	219,693W		226,878W	
52.	UOH502	PUBLIC SERVICE-MAUI COMMUNITY COLLEGE					
		OPERATING	UOH	3.50*		3.50*	
			UOH	142,152A		142,817A	
			UOH	.50*		.50*	
			UOH	273,875B		275,166B	
53.	UOH503	ACADEMIC SUPPORT-MAUI COMMUNITY COLLEGE					
		OPERATING	UOH	17.00*		17.00*	
			UOH	570,403A		579,139A	
54.	UOH504	STUDENT SERVICES-MAUI COMMUNITY COLLEGE					
		OPERATING	UOH	12.50*		12.50*	
			UOH	432,690A		434,123A	
			UOH	2.00*		2.00*	
			UOH	183,773B		188,807B	
			UOH	118,000N		118,000N	
			UOH	5,309W		5,521W	
55.	UOH505	INSTITUTIONAL SUPPORT-MAUI COMMUNITY COLLEGE					
		OPERATING INVESTMENT CAPITAL	UOH AGS	24.50*		24.50*	
				1,044,715A		1,084,651A	
					C	200,000C	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
56.	UOH601	INSTRUCTION-KAUAI COMMUNITY COLLEGE					
	OPERATING		UOH	54.00*		54.00*	
			UOH	1,721,218A		1,707,886A	
			UOH	1,735N		1,735N	
			UOH	1.00*		1.00*	
			UOH	109,436W		112,199W	
57.	UOH602	PUBLIC SERVICE - KAUAI COMMUNITY COLLEGE					
	OPERATING		UOH	.50*		.50*	
			UOH	22,770A		22,854A	
			UOH	83,348B		83,882B	
58.	UOH603	ACADEMIC SUPPORT-KAUAI COMMUNITY COLLEGE					
	OPERATING		UOH	15.50*		15.50*	
			UOH	517,957A		533,002A	
59.	UOH604	STUDENT SERVICES-KAUAI COMMUNITY COLLEGE					
	OPERATING		UOH	12.00*		12.00*	
			UOH	348,955A		351,826A	
			UOH	36,000N		36,000N	
			UOH	3,538W		3,680W	
60.	UOH605	INSTITUTIONAL SUPPORT - KAUAI CC					
	OPERATING		UOH	25.50*		25.50*	
			UOH	1,375,472A		1,399,377A	
	INVESTMENT CAPITAL		AGS	26,095B		26,690B	
			AGS	331,000C		4,049,000C	
61.	UOH701	INSTRUCTION-WEST OAHU COLLEGE					
	OPERATING		UOH	10.00*		10.00*	
			UOH	392,678A		393,509A	
			UOH	49,140B		51,597B	
62.	UOH704	ACADEMIC SUPPORT-WEST OAHU COLLEGE					
	OPERATING		UOH	3.50*		3.50*	
			UOH	168,201A		169,637A	
63.	UOH705	STUDENT SERVICES-WEST OAHU COLLEGE					
	OPERATING		UOH	3.00*		3.00*	
			UOH	110,307A		111,581A	
64.	UOH706	INSTITUTIONAL SUPPORT-WEST OAHU COLLEGE					
				4.00*		4.00*	

**ACT 216**

**PROGRAM APPROPRIATIONS**

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		OPERATING	UOH	314,053A	320,080A
65.	UOH901	ACADEMIC SUPPORT-UOH, SYSTEM-WIDE SUPPORT			
		OPERATING	UOH	44.50*	44.50*
			UOH	4,668,291A	4,802,897A
			UOH	600,000B	622,000B
66.	UOH902	STUDENT SERVICES-UOH, SYSTEM-WIDE SUPPORT			
		OPERATING	UOH	529,497A	551,155A
67.	UOH903	INSTITUTIONAL SPPT-UOH, SYSTEM-WIDE SPPT			
		OPERATING	UOH	216.00*	216.00*
			UOH	9,738,357A	9,768,602A
			UOH	6.00*	6.00*
			UOH	444,869B	329,499B
68.	UOH904	VOCATIONAL EDUCATION, STATEWIDE COORDINATION			
		OPERATING	UOH	7.00*	7.00*
			UOH	240,375A	241,219A
			UOH	4.00*	4.00*
			UOH	346,064N	351,669N
69.	UOH905	STATEWIDE PLAN & COORD FOR POST-SECONDARY ED			
		OPERATING	UOH	1,235,741A	1,282,954A
70.	UOH906	COMMUNITY COLLEGE SYSTEMWIDE SUPPORT			
		OPERATING	UOH	57.75*	57.75*
			UOH	7,998,003A	3,678,903A
			UOH	16.00*	16.00*
			UOH	1,067,705B	1,078,149B
			UOH	19.60*	19.60*
			UOH	942,595N	946,464N
			UOH	3.00*	3.00*
		INVESTMENT CAPITAL	AGS	265,394W	273,808W
				386,000C	C
<b>H. CULTURE AND RECREATION</b>					
1.	UOH881	AQUARIA			
		OPERATING	UOH	10.00*	10.00*
			UOH	475,110A	483,053A
2.	CCA701	HAWAII PUBLIC BROADCASTING			
		OPERATING	CCA	37.00*	37.00*
			CCA	1,968,678A	1,767,175A



## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
					1.00*		1.00*
		INVESTMENT CAPITAL	CCA CCA	1,493,591W 65,000C		1,547,448W C	
3.		AGS881 - PERFORMING & VISUAL ARTS EVENTS					
		OPERATING	AGS	13.00* 4,262,112A <sup>1</sup> 3,902,112A		13.00* 2,380,207A <sup>1</sup> 2,370,207A	
			AGS	457,047N		453,248N	
			AGS	15,000R		15,000R	
4.		AGS818 - ETHNIC GROUP PRESENTATIONS					
		OPERATING	AGS	60,557A		62,778A	
			AGS	7,500B		7,500B	
5.		LNR804 - FOREST RECREATION					
		OPERATING	LNR	28.00* 708,521A		28.00* 719,864A	
			LNR	296,484N		296,484N	
		INVESTMENT CAPITAL	LNR	498,000C		84,000C	
6.		LNR805 - AQUATIC RECREATION					
		OPERATING	LNR	8.00* 181,171A		8.00* 182,651A	
			LNR	329,433N		329,433N	
7.		LNR806 - HERITAGE & RECREATION PARKS					
		OPERATING	LNR	138.00* 4,211,692A		138.00* 4,038,311A	
		INVESTMENT CAPITAL	AGS	500,000A		A	
			AGS	190,000C		820,000C	
			LNR	A		500,000A	
			LNR	9,475,000C		3,600,000C	
8.		TRN801 - OCEAN-BASED RECREATION					
		OPERATING	TRN	267,896A 53.50*		267,896A 53.50*	
			TRN	4,552,796B		4,960,642B	
		INVESTMENT CAPITAL	TRN	1,845,000D		565,000D	
9.		AGS889 - SPECTATOR EVENTS & SHOWS - ALOHA STADIUM					
		OPERATING	AGS	37.00* 2,523,747B		37.00* 2,616,845B	
		INVESTMENT CAPITAL	AGS	5,610,000C		C	
10.		LNR809 - GENERAL ADMIN FOR CULTURE & RECREATION					
		OPERATING	LNR	22.00* 554,299A		22.00* 557,367A	
			LNR	2,140,798N		2,142,175N	

**ACT 216**

**PROGRAM APPROPRIATIONS**

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		INVESTMENT CAPITAL	LNR	275,000	C	255,000	C
<b>I. PUBLIC SAFETY</b>							
1.		SOC394 - INTAKE SERVICE CENTERS					
		OPERATING	SOC	63.00*		63.00*	
				2,552,939A		1,906,443A	
2.		SOC401 - JUVENILE CORRECTIONAL FACILITIES					
		OPERATING	SOC	85.50*		85.50*	
				3,021,177A		3,074,554A	
3.		SOC402 - HIGH SECURITY FACILITY					
		OPERATING	SOC	437.00*		437.00*	
		INVESTMENT CAPITAL	AGS	9,963,208A		10,092,211A	C
				7,570,000C			
4.		SOC403 - KULANI CORRECTIONAL FACILITY					
		OPERATING	SOC	76.33*		76.33*	
				2,873,847A		2,913,383A	
5.		SOC404 - WAIAWA CORRECTIONAL FACILITY					
		OPERATING	SOC	48.50*		48.50*	
				2,050,383A		2,078,933A	
6.		SOC405 - HAWAII COMMUNITY CORRECTIONAL CENTER					
		OPERATING	SOC	40.50*		40.50*	
				1,168,465A		1,192,959A	
7.		SOC406 - MAUI COMMUNITY CORRECTIONAL CENTER					
		OPERATING	SOC	50.00*		50.00*	
		INVESTMENT CAPITAL	AGS	1,555,232A		1,558,288A	C
				368,000C			
8.		SOC407 - OAHU COMMUNITY CORRECTIONAL CENTER					
		OPERATING	SOC	610.10*		610.10*	
		INVESTMENT CAPITAL	AGS	21,433,620A		21,767,723A	C
				850,000C			
9.		SOC408 - KAUAI COMMUNITY CORRECTIONAL CENTER					
		OPERATING	SOC	41.50*		41.50*	
				1,259,825A		1,274,727A	
10.		SOC409 - WOMEN'S COMMUNITY CORRECTIONAL CENTER					

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		OPERATING	SOC	82.00* 2,798,729A	82.00* 2,828,891A
11.		SOC411 - ADULT PAROLE DETERMINATIONS			
		OPERATING	SOC	2.00* 128,165A	2.00* 128,519A
12.		SOC413 - ADULT PAROLE SUPERVISION AND COUNSELING			
		OPERATING	SOC	24.00* 548,535A	24.00* 550,200A
13.		SOC414 - CRIMINAL INJURIES COMPENSATION			
		OPERATING	SOC	3.00* 111,283A	3.00* 112,501A
14.		SOC493 - GENERAL ADMINISTRATION - CONFINEMENT			
		OPERATING INVESTMENT CAPITAL	SOC AGS	46.00* 2,114,277A 90,000C	46.00* 1,978,095A C
15.		ATG231 - STATE CRIMINAL JUSTICE INFO & IDENTIFICATION			
		OPERATING	ATG	27.00* 971,404A	27.00* 983,373A
16.		LNR810 - PREVENTION OF NATURAL DISASTERS			
		OPERATING	LNR	3.00* 127,630A	3.00* 128,640A
17.		DEF110 - AMELIORATION OF PHYSICAL DISASTERS			
		OPERATING	DEF	145.40* <del>6,266,319A</del> 6,244,319A	145.80* <del>6,273,931A</del> 6,273,931A
		INVESTMENT CAPITAL	DEF AGS AGS	6.10* 1,620,489N 1,145,000C 1,120,000N	7.70* 1,648,387N 960,000C 2,920,000N
<b>J. INDIVIDUAL RIGHTS</b>					
1.		AGR810 - TESTING & CERTIFICATION OF CONSUMER GOODS			
		OPERATING	AGR	26.25* 644,063A	26.25* 656,642A
			AGR	26.25* 837,933N	26.25* 840,412N

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
2.		CCA103 - CONSUMER ADVOCATE FOR COMM, UTIL & TRANS SVC					
		OPERATING	CCA	20.00*		20.00*	
				1,042,108A		1,062,828A	
			CCA	4.00*		4.00*	
				301,125X		291,463X	
3.		CCA104 - FINANCIAL INSTITUTION SERVICES					
		OPERATING	CCA	27.00*		27.00*	
				923,813A		922,547A	
4.		CCA106 - INSURANCE SERVICES					
		OPERATING	CCA	31.00*		31.00*	
				1,401,389A		1,339,801A	
5.		CCA105 - PROFESSIONAL, VOCATIONAL & PERSONAL SVCS					
		OPERATING	CCA	43.00*		43.00*	
				1,575,225A		1,600,985A	
6.		BUF901 - TRANSPORTATION, COMMUNICATIONS, & UTILITIES					
		OPERATING	BUF	26.00*		26.00*	
				910,890A		918,633A	
7.		CCA111 - BUSINESS REGISTRATION					
		OPERATING	CCA	32.00*		32.00*	
			CCA	761,305A		775,118A	
				286,697B		B	
8.		AGR812 - MEASUREMENT STANDARDS					
		OPERATING	AGR	21.00*		21.00*	
		INVESTMENT CAPITAL	AGS	624,775A		589,137A	
				63,000C		C	
9.		CCA110 - OFFC OF CONSUMER PROT - ADV & TERMS OF SALE					
		OPERATING	CCA	25.00*		25.00*	
				753,984A		756,657A	
10.		CCA191 - GENERAL SUPPORT-PROTECTION OF THE CONSUMER					
		OPERATING	CCA	55.00*		55.00*	
			CCA	1,891,790A		1,900,189A	
				1,184,408B		1,184,408B	
11.		BUF151 - LEGAL ASSISTANCE IN CRIMINAL ACTIONS					
				72.00*		72.00*	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		OPERATING	BUF	3,724,766A	3,737,607A
12.	LNR111	- CONVEYANCES AND RECORDINGS			
		OPERATING	LNR	44.00* 1,042,108A	44.00* 953,239A
13.	SOC888	- COMMISSION ON THE STATUS OF WOMEN			
		OPERATING	SOC	1.00* 43,645A	1.00* 43,944A
<b>K. GOVERNMENT-WIDE SUPPORT</b>					
1.	GOV100	- OFFICE OF THE GOVERNOR			
		OPERATING	GOV	43.00* 2,992,700A	43.00* 2,750,234A
		INVESTMENT CAPITAL	GOV	263,420R	R
			GOV	3,000,000C	C
2.	LTG100	- OFFICE OF THE LIEUTENANT GOVERNOR			
		OPERATING	LTG	21.00* 2,368,403A	21.00* 3,479,774A
3.	BUF101	- BUF - PRGM PLANNG, ANALYSIS & BUDGETING			
		OPERATING	BUF	66.00* 49,942,031A	69.00* 52,664,369A
4.	PED103	- STATEWIDE PLAN AND COORDINATION			
		OPERATING	PED	41.00* 1,784,281A	41.00* 2,164,535A
			PED	558,900N	379,400N
5.	PED104	- HAWAII COMMUNITY DEVELOPMENT AUTHORITY			
		OPERATING	PED	5.00* 234,747A	5.00* 237,011A
		INVESTMENT CAPITAL	PED	3,640,000C	23,580,000C
6.	GOV102	- GOV - OTH POLICY DEVELOPMENT & COORDINATION			
		OPERATING	GOV	11.00* 1,898,944A	11.00* 1,728,079A
7.	TAX102	- INCOME ASSESSMENT AND AUDIT			
		OPERATING	TAX	119.00* 2,971,169A	119.00* 2,993,144A
8.	TAX103	- TAX COLLECTIONS ENFORCEMENT			

ACT 216

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		OPERATING	TAX	93.00* 2,093,551A	93.00* 2,086,439A
9.		TAX105 - TAX SERVICES & PROCESSING			
		OPERATING	TAX	93.00* 3,077,667A	93.00* 3,158,454A
10.		TAX107 - SUPPORTING SERVICES - REVENUE COLLECTION			
		OPERATING	TAX	49.00* 2,734,334A	49.00* 2,778,390A
11.		AGS101 - ACCT SYSTEM DEVELOPMENT & MAINTENANCE			
		OPERATING	AGS	12.00* 350,104A	12.00* 350,686A
12.		AGS102 - EXPENDITURE EXAMINATION			
		OPERATING	AGS	23.00* 802,970A	23.00* 819,116A
13.		AGS103 - RECORDING AND REPORTING			
		OPERATING	AGS	15.00* 530,073A	15.00* 517,238A
14.		AGS104 - INTERNAL POST AUDIT			
		OPERATING	AGS	19.00* 1,117,077A	19.00* 1,142,415A
15.		BUF110 - CASH AND DEBT MANAGEMENT			
		OPERATING	BUF BUF BUF	18.00* 256,385,182A 16,700B 5,000U	18.00* 264,757,383A 16,710B 5,000U
16.		ATG100 - LEGAL SERVICES			
		OPERATING	ATG ATG	141.00* 10,534,856A 9.00* 1,700,265N 30.00* 1,861,803U 50,000C	141.00* 9,502,603A 9.00* 1,706,016N 30.00* 1,854,017U C
17.		BUF131 - ELECTRONIC DATA PROCESSING SERVICES			
		OPERATING	BUF BUF	235.00* 13,165,203A 25.00* 1,860,887U	248.00* 14,209,755A 25.00* 1,739,522U

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		INVESTMENT CAPITAL	AGS	200,000	C		C
18.	AGS111	RECORDS MANAGEMENT					
		OPERATING	AGS	24.00* 541,181A		24.00* 532,936A	
19.	PER102	WORK FORCE ATTR, SELECT, CLASS, & EFFECT					
		OPERATING	PER	108.00* 12,642,419A 1,410B 783,838U		108.00* 13,198,354A 1,465B 783,838U	
20.	PER191	SUPPORTING SERVICES-PERSONNEL SERVICES					
		OPERATING	PER	11.00* 562,351A		11.00* 559,905A	
21.	BUF141	RETIREMENT					
		OPERATING	BUF	28.18* 128,696,320A 9.82* 532,187S		28.18* 73,594,978A 9.82* 439,137S	
22.	BUF142	GROUP LIFE INSURNCE, MED, HOSP & DNTL BNFITS					
		OPERATING	BUF	13.00* 563,057A		13.00* 573,828A	
23.	LNR101	PUBLIC LANDS MANAGEMENT					
		OPERATING	LNR	36.00* 915,367A		36.00* 927,720A	
		INVESTMENT CAPITAL	LNR	680,000C		C	
24.	AGS203	RISK MANAGEMENT					
		OPERATING	AGS	3.00* 5,614,574A 110,240U		3.00* 5,906,439A 114,760U	
25.	AGS211	LAND SURVEY					
		OPERATING	AGS	28.00* 747,156A		28.00* 720,351A	
26.	AGS221	CONSTRUCTION					
		OPERATING	AGS	20.00* 619,543A		20.00* 619,842A	
		INVESTMENT CAPITAL	AGS	A		3,114,000A	
			AGS	39,912,000C		2,860,000C	
27.	AGS231	CUSTODIAL SERVICES					

ACT 216

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		OPERATING	AGS	153.50*	153.50*
			AGS	7,067,528A	7,137,651A
				330,515U	345,437U
28.	AGS232	- GROUNDS MAINTENANCE			
		OPERATING	AGS	38.00*	38.00*
				858,908A	869,393A
29.	AGS233	- BUILDING REPAIRS AND ALTERATIONS			
		OPERATING	AGS	26.00*	26.00*
				6,226,478A	3,911,146A
30.	AGS240	- CENTRAL PURCHASING			
		OPERATING	AGS	16.00*	16.00*
			AGS	351,440A	351,923A
				28,350W	29,400W
31.	AGS244	- SURPLUS PROPERTY MANAGEMENT			
		OPERATING	AGS	5.00*	5.00*
				154,839W	155,770W
32.	AGS251	- MOTOR POOL			
		OPERATING	AGS	8.50*	8.50*
				575,308W	583,009W
33.	AGS252	- PARKING CONTROL			
		OPERATING	AGS	12.50*	12.50*
				1,492,738W	1,615,848W
34.	AGS263	- COMMUNICATION			
		OPERATING			
35.	BUF161	- COMMUNICATION			
		OPERATING	BUF	15.00*	15.00*
			BUF	2,688,973A	2,774,649A
				1,776,485U	1,972,142U
36.	ATG801	- CAPITOL BUILDING SECURITY			
		OPERATING	ATG	47.00*	47.00*
		INVESTMENT CAPITAL	AGS	1,096,134A	1,065,293A
				83,000C	C
37.	AGS901	- GENRL ADM SVCS - ACCOUNTING & GENERAL SVCS			
		OPERATING	AGS	42.00*	42.00*
				1,175,763A	1,177,181A
38.	SUB101	- GRANTS-IN-AID TO COUNTIES			



PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	SUB	33,686,551A <sup>1</sup> 33,041,551A		31,497,551A <sup>1</sup> 31,447,551A	
39.		SUB201 - CITY AND COUNTY OF HONOLULU					
		OPERATING INVESTMENT CAPITAL	CCH	850,000C			C
40.		SUB301 - COUNTY OF HAWAII					
		OPERATING					
41.		SUB401 - COUNTY OF MAUI					
		OPERATING INVESTMENT CAPITAL	COM COM	600,000A 550,000C			A C
42.		SUB501 - COUNTY OF KAUAI					
		OPERATING INVESTMENT CAPITAL	COK	180,000A			A

PART III. PROGRAM APPROPRIATION PROVISIONS

ECONOMIC DEVELOPMENT

SECTION 4. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$1,500,000 in fiscal year 1987-88 and \$1,000,000 in fiscal year 1988-89 shall be provided to the Pacific international center for high technology research; provided further that the department of planning and economic development shall expedite the transfer of funds; provided further that the funds shall be used for independent research in high technology and alternate energy utilization; provided further that of the amount in fiscal year 1987-88, \$500,000 shall be used to continue the Sanki/PICHTR project; provided further that the Pacific international center for high technology research shall submit an expenditure plan to the legislature twenty days before the convening of the 1988 and the 1989 regular session.

SECTION 5. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$35,000 in fiscal year 1987-88 and \$35,000 in fiscal year 1988-89 shall be used to coordinate and promote a health and sports industry in the State.

SECTION 6. Provided that of the general fund appropriation to commerce and industry (PED 102), the sum of \$2,000,000 in fiscal year 1987-88 shall be paid into the Hawaii capital loan program created in section 210-3, Hawaii Revised Statutes.

SECTION 7. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$217,392 in fiscal year 1987-88 and \$225,000 in fiscal year 1988-89 shall be used for the management,

## ACT 216

marketing, and promotion of the Hawaii ocean science and technology park, to include the pre-incubator facility.

SECTION 8. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$225,000 in fiscal year 1987-88 shall be used to fund the main street task force; provided further that of the amount in fiscal year 1987-88, \$25,000 shall be used to begin the program in the Honolulu downtown Chinatown area; provided further that the main street task force shall submit a report to the legislature twenty days before the convening of the 1988 regular session on the status of the Chinatown program.

SECTION 9. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$25,000 in fiscal year 1987-88 and \$25,000 in fiscal year 1988-89 shall be used to promote Hawaii's sister state relationship with Cheju province in Korea.

SECTION 10. Provided that of the general fund appropriation for commerce and industry (PED 102), \$285,000 in fiscal year 1987-88 and \$285,000 in fiscal year 1988-89 shall be used for the operating expenditures of the hyperbaric treatment facilities in the ocean resources branch.

SECTION 11. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$51,018 in fiscal year 1987-88 and \$51,018 in fiscal year 1988-89 shall be used for Hawaii's share of dues in the Pacific basin development council.

SECTION 12. Provided that of the general fund appropriation for commerce and industry (PED 102), the sum of \$4,382,167 in fiscal year 1987-88 and \$1,095,542 in fiscal year 1988-89 shall be expended by the department of planning and economic development (DPED) for marketing, promotion and industry development; provided further that not more than twenty five per cent of the preceding sums shall be available prior to the approval of DPED's strategic marketing plan by the Governor, which shall include:

1. A statement of the goals and objectives for this marketing, promotion and development program in such targeted areas as product promotion and development, film production, ocean and marine resources, telecommunications and high technology, international business and development, and any other area designated by DPED;
2. Action plans for the implementation and management of this program;
3. Measures of effectiveness, in quantifiable terms such as:
  - a. Projected number of new businesses statewide and county-wide in the targeted industries;
  - b. Total revenues to be generated by the targeted industry;
  - c. Total number of employees projected for hire by that industry;
  - d. Projected increases in exports to foreign countries, and increased trade, investment and business contacts in Hawaii;
  - e. Projected requirements for new industry training and specialized educational programs to prepare the State's labor force for entry into such new industries;
  - f. Business incentives and developmental programs required to attract such new businesses to the State;

- g. Other measures of effectiveness as deemed appropriate by DPED;

Provided further that upon its completion, the strategic marketing plan shall be submitted to the President of the Senate and the Speaker of the House of Representatives; provided further that DPED is authorized to establish and fill eleven positions, exempt from the provisions of Chapters 76 and 77, Hawaii Revised Statutes, to effectively establish and manage this program; provided further that DPED shall submit quarterly reports to the Governor on the progress and effectiveness of the programs funded here and to identify any major problem areas; provided further that supplemental funding for the DPED in the second year shall be contingent on the effective achievement of this program's goals and objectives; provided further that of the above stated appropriation, the sum of \$50,000 in fiscal year 1987-88 and \$50,000 in fiscal year 1988-89 shall be used for seafood promotion; the sum of \$40,000 in fiscal year 1987-88 shall be used for the small business procurement assistance program; provided further that the sum of \$350,000 in fiscal year 1987-88 and \$350,000 in fiscal year 1988-89 shall be expended by the business development branch to contract with the economic development boards or corporations of the counties for the non-personnel promotion of economic development in Hawaii.

SECTION 13. Provided that of the general fund appropriation to commerce and industry (PED 102), the sum of \$50,000 in fiscal year 1987-88 shall be expended to hire an aquatics specialist to establish a statewide aquatics program which will include a statewide lifeguard certification program, a public education classroom-setting ocean awareness safety program and development of an aquatics program at the university of Hawaii-Manoa.

SECTION 14. Provided that of the general fund appropriation for the state tourism office (PED 113), \$8,750,000 in fiscal year 1987-88 and \$2,187,500 in fiscal year 1988-89 shall be expended by the department of planning and economic development (DPED) for world-wide tourism marketing, advertising and promotional activities; provided further that at least sixty per cent of this sum shall be expended for the westbound market, twenty-five per cent for the eastbound market, and fifteen per cent for new world-wide markets and specific Hawaiian island destinations; provided further that not more than twenty-five per cent of the preceding sums shall be available prior to the approval of DPED's strategic marketing plan by the Governor, which shall include:

1. A statement of the goals and objectives of the respective tourism marketing and promotion programs administered by the DPED and the Hawaii visitors bureau (HVB) in each priority target area within the primary tourist markets, secondary tourist markets and other market areas;
2. Action plans for the implementation and management of these programs;
3. Measures of effectiveness, in quantifiable terms such as:
  - a. the level of visitor arrivals by specific target areas;
  - b. changes in the length of stay of visitors by specific target areas;
  - c. the amount of visitor expenditures;
  - d. the growth in travel to the neighbor islands;
  - e. the level of visitor satisfaction;
  - f. the growth of visitor arrivals from new travel markets;

- g. other measures of effectiveness as deemed appropriate by the DPED;

Provided further that the DPED shall submit copies of the strategic marketing plan to the President of the Senate and the Speaker of the House of Representatives; provided further that the department of planning and economic development is authorized to establish and fill five temporary positions exempt from the provisions of Chapters 76 and 77, HRS, to assist the staff of the state tourism office (PED 113) in promoting tourism; provided further that the DPED shall submit quarterly reports to the Governor on the progress and effectiveness of the programs funded here, and to identify any major problem areas; provided further that supplemental funding for the DPED in the second year shall be contingent on the effective achievement of this program's goals and objectives.

Provided further that of the above stated appropriation for state tourism office (PED 113), the sum of \$600,000 in fiscal year 1987-88 shall be used for the production of a public broadcasting program in the Sullivan's travel series; provided further that \$100,000 in fiscal year 1987-88 shall be used for the production of the Hawaiian rainbow series; provided further that \$50,000 in fiscal year 1987-88 shall be used for the third annual festival of the Pacific.

Provided further that \$100,000 in fiscal year 1987-88 and \$100,000 in fiscal year 1988-89 shall be used to advertise and promote Molokai as a visitor destination; provided further that \$100,000 in fiscal year 1987-88 and \$100,000 in fiscal year 1988-89 shall be used to advertise and promote Hilo as a visitor destination.

SECTION 15. Provided that department of planning and economic development (DPED) shall submit a report to the Legislature twenty days prior to the convening of the 1988 regular session, on the roles and responsibilities of the DPED and the Hawaii visitors bureau (HVB) in implementing the State's tourism marketing and promotion program, an analysis of the recommendations of the Legislative Auditor's report on the management audit of the HVB, and a plan of action for implementing the report's recommendations; provided further that of the general fund appropriation for the state tourism office (PED 113), the sum of \$1,800,000 in each year of the fiscal biennium shall be used to operate state of Hawaii field offices; provided further that of the general fund appropriation for the state tourism office (PED 113), the sum of \$450,000 in each year of the fiscal biennium shall be used for Industry and Public Relations as follows:

	<u>FY 1987-88</u>	<u>FY 1988-89</u>
Aloha Week	\$ 200,000	\$ 200,000
Visitor Industry Educational Council	\$ 50,000	\$ 50,000
Pacific Rim Festival	\$ 50,000	\$ 50,000
Promotion of Native Hawaiian Culture	\$ 150,000	\$ 150,000

Provided further that of the general fund appropriation for the state tourism office (PED 113), the sum of \$115,000 in fiscal year 1987-88 shall be used for tourism research and analysis as follows: \$75,000 for a study of competitive "sunshine" destination areas and \$40,000 for the acquisition of PRIZM software; provided further that of the general fund appropriation for the state tourism office (PED 113), the sum of \$125,000 in fiscal year

1987-88 and \$175,000 in fiscal year 1988-89 shall be used for sports promotion as follows:

	FY 1987-88	FY 1988-89
Hula Bowl	\$ 40,000	\$ 40,000
Aloha Bowl	\$ 15,000	\$ 15,000
Ironman Triathalon	\$ 20,000	\$ 20,000
Hawaiian Open Amateur Baseball Tournament	\$ 50,000	\$ 100,000

Provided further that of the general fund appropriation for the state tourism office (PED 113), the sum of \$658,383 in fiscal year 1987-88 and \$341,617 in fiscal year 1988-89 shall be used for the State's participation in Expo 88 in Australia; provided further that of the general fund appropriation for the state tourism office (PED 113), the sum of \$60,000 in fiscal year 1987-88 and \$60,000 in fiscal year 1988-89 shall be used to conduct an annual visitor expenditure survey; provided further that of the general fund appropriation for the state tourism office (PED 113), the sum of \$95,968 in fiscal year 1987-88 and \$124,624 in fiscal year 1988-89 shall be used for four temporary tourism specialists and one temporary clerk-stenographer positions; provided further that of the general fund appropriation for the state tourism office (PED 113), the sum of \$375,000 in fiscal year 1987-88 and \$375,000 in fiscal year 1988-89 shall be used for operating costs for neighbor island chapter offices.

SECTION 16. Provided that of the general fund appropriation for state tourism office (PED 113), the sum of \$36,000 in fiscal year 1987-88 and \$36,000 in fiscal year 1988-89 shall be used for the implementation of the tourism impact management plan, specifically for the counties of Hawaii, Maui and Kauai.

SECTION 17. Provided that the department of planning and economic development shall prepare and adopt a ten year strategic marketing plan for tourism advertising, marketing promotions and specific island destinations prior to January 15, 1988, and implement the plan effective July 1, 1988; provided further that the department of planning and economic development shall submit the strategic marketing plan to the 1988 legislature.

SECTION 18. Provided that the department of agriculture by the end of each calendar month shall conduct an independent audit of the previous calendar month on the utilization of milk received by the milk processors in relation to the volume of production by the processor; provided further that the department of agriculture shall submit a report of its findings to the legislature twenty days before the beginning of the 1988 and 1989 regular session for the calendar years 1987 and 1988, respectively.

SECTION 19. Provided that of the general fund appropriation for plant pest control (AGR 122), the sum of \$95,028 in fiscal year 1987-88 and \$55,200 in fiscal year 1988-89 shall be used for the containment of gorse infestation on the islands of Hawaii and Maui.

SECTION 20. Provided that of the general fund appropriation for plant pest control (AGR 122), the sum of \$30,000 in fiscal year 1987-88 and \$30,000 in fiscal year 1988-89 shall be used for a biological control project to control the webworm population on the island of Maui.

## ACT 216

SECTION 21. Provided that of the general fund appropriation for the department of agriculture animal quarantine program (AGR 131), the sum expended for the quarantine of cats and dogs, excluding amortization of capital improvement costs, shall not exceed the sum collected as revenue fees and deposited into the general fund for that purpose.

SECTION 22. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$30,000 in fiscal year 1987-88 and \$30,000 in fiscal year 1988-89 shall be used for the promotion of anthuriums in the State of Hawaii; provided further that no funds shall be made available under this Act unless matched on a dollar-for-dollar basis by private contributions.

SECTION 23. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$200,000 in fiscal year 1987-88 and \$200,000 in fiscal year 1988-89 shall be used for the promotion of pineapples; provided further that no funds shall be made available unless matched on a dollar-for-dollar basis by private contributions.

SECTION 24. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$150,000 in fiscal year 1987-88 and \$150,000 in fiscal year 1988-89 shall be used for the promotion of papayas; provided further that no funds shall be made available unless matched on a dollar-for-dollar basis by private contributions.

SECTION 25. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$30,000 in fiscal year 1987-88 and \$30,000 in fiscal year 1988-89 shall be used for programs to promote consumer acceptance of ginger root produced in the State of Hawaii; provided further that no funds shall be made available under this Act unless matched on a dollar-for-dollar basis by private contributions.

SECTION 26. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$410,000 in fiscal year 1987-88 shall be used for the promotion of diversified agricultural commodities.

SECTION 27. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$40,000 in fiscal year 1987-88 shall be used for a marketing program for Kona coffee with the assistance of the university of Hawaii college of tropical agriculture; provided further that the sum of \$60,000 in fiscal year 1987-88 shall be used for promotion of Kona coffee, matched on a dollar-for-dollar basis by private contributions.

SECTION 28. Provided that of the general fund appropriation for commercial fishery and aquaculture (LNR 153), the sum of \$250,000 in fiscal year 1987-88 shall be used for a survey of the seafloor south of West Molokai and west of Lanai.

SECTION 29. Provided that of the general fund appropriation for commercial fishery and aquaculture (LNR 153), the sum of \$60,000 in fiscal year 1987-88 and \$60,000 in fiscal year 1988-89 shall be used to fund the expansion of extension work in Hilo, Kona, and other areas of the State to

reduce burnt tuna syndrome (BTS) and for continued research on biochemical reactions of BTS; provided further that a progress report shall be submitted to the legislature twenty days prior to the convening of the 1988 and 1989 regular session.

**SECTION 30.** Provided that of the general fund appropriation for commercial fishery and aquaculture (LNR 153), the sum of \$47,000 in fiscal year 1987-88 shall be used for stock rearing and feed research of mahimahi.

**SECTION 31.** Provided that of the general fund appropriation for water development and irrigation services (LNR 141), the sum of \$100,000 in fiscal year 1987-88 shall be used for repairs and improvements to east Wai'oli River irrigation system in Hanalei, Kauai.

**SECTION 32.** Provided that of the general fund appropriation for water development and irrigation services (LNR 141), the sum of \$11,000 in fiscal year 1987-88 shall be used for drainage improvements in the Wailua Kula Rice Lots Irrigation Systems Area.

**SECTION 33.** Provided that of the general fund appropriation for energy development and management (PED 120), the sum of \$200,000 in fiscal year 1987-88 shall be used to review and coordinate the development of an interisland electric cable system to transmit geothermally-produced power from the island of Hawaii to the island of Oahu; provided further that a progress report shall be submitted to the legislature twenty days before the convening of the 1988 regular session.

**SECTION 34.** Provided that of the general fund appropriation for energy development and management (PED 120), the sum of \$60,000 in fiscal year 1987-88 and \$60,000 in 1988-89 shall be used for general support to the Puna geothermal research center at the natural energy laboratory of Hawaii.

## **EMPLOYMENT**

**SECTION 35.** Provided that of the general fund appropriation for employment and training programs (LBR 131), the sum of \$100,000 in fiscal year 1987-88 shall be used for a project grant to the leeward Oahu employment opportunities.

**SECTION 36.** Provided that of the general fund appropriation for transition centers (LBR 136), the sum of \$48,432 for fiscal year 1987-88 and \$42,432 for fiscal year 1988-89 shall be used for two temporary social workers to assist in counseling in the transition centers.

**SECTION 37.** Provided that of the general fund appropriation for vocational rehabilitation (SOC 802), the sum of \$839,234 in fiscal year 1987-88 and \$840,482 in fiscal year 1988-89 shall be used for purchase of service; provided further that of the federal funds authorized, the sum of \$465,729 in fiscal year 1987-88 and \$498,339 in fiscal year 1988-89 shall be used for purchase of service.

**SECTION 38.** Provided that of the general fund appropriation for office of community services (LBR 903), the sum of \$116,334<sup>0</sup> in fiscal year 1987-88 shall be used for grants-in-aid.

**SECTION 39.** Provided that of the general fund appropriation for office of community services (LBR 903), the sum of \$2,877,584<sup>1</sup> \$2,735,584 in fiscal year 1987-88 and \$2,941,189<sup>1</sup> \$2,792,189 in fiscal year 1988-89 shall be used for purchase of service; provided further that of the federal

## **ACT 216**

funds authorized, the sum of \$1,072,672 in fiscal year 1987-88 and \$1,072,672 in fiscal year 1988-89 shall be used for purchase of service.

### **TRANSPORTATION**

**SECTION 40.** Provided that of the special fund appropriation for air transportation facilities and services (TRN 195), the sum of \$100,000 in fiscal year 1987-88 shall be used to defray the expenses of the Hawaii wing, civil air patrol pursuant to section 261-6, Hawaii Revised Statutes.

**SECTION 41.** Provided that of the harbor special fund appropriation for Nawiliwili harbor (TRN 361), the sum of \$20,000 in fiscal year 1987-88 shall be used for the design and construction of a livestock staging area of holding pens.

**SECTION 42.** Provided that of the highway special fund appropriation to land transportation facilities and services support (TRN 595), the sum of \$410,124 in fiscal year 1987-88 shall be expended to contract consultants to develop long-range plans for the Kauai, Maui, and Hawaii highway systems; provided further that these moneys shall be supplemented with federal highway planning moneys that are to be available and coordinated with the statewide transportation planning office; provided further that a progress report shall be submitted to the legislature no later than twenty days prior to the convening of the 1988 regular session.

**SECTION 43.** Provided that of the special fund appropriation for land transportation facilities and services support (TRN 595), the sum of \$200,000 in fiscal year 1987-88 shall be used for the study and planning of a marine highway system between Hawaii Kai and downtown Honolulu and between the West Beach/Ewa/Waipahu area and downtown Honolulu; provided further that the sum appropriated shall be expended by the department of transportation; provided further that the study shall examine any federal aid which may be used for the system, the projected market, the type or types of waterborne vehicles feasible and affordable for the system, the determination of routes, the infrastructure, including necessary landings, park and ride facilities, the impact of the system on peak period traffic, various marine highway management alternatives, the start-up costs for such a system, the cost and revenues from the operation of the system and, if any, the amount of the necessary public subsidy, and the cost effectiveness of the system, and other factors deemed appropriate; provided further that the plan shall recommend a feasible and cost-effective marine highway system for implementation.

### **ENVIRONMENTAL PROTECTION**

**SECTION 44.** Provided that of the general fund appropriation for solids, liquids, gases and noise (HTH 840), the sum of \$55,000 in fiscal year 1987-88 and \$55,000 in fiscal year 1988-89 shall be expended to administer the statewide wastewater treatment operating training program at the training facility located at the Sand Island wastewater treatment plant site; provided further that these funds shall be expended for operating expenses, to include the purchase of necessary equipment; provided further that no funds shall be made available under this appropriation (HTH 840), unless the city and county of Honolulu, county of Hawaii, county of Kauai, and county of Maui provide 76, 9, 6 and 9 per cent, respectively, of the nonstate funded operating costs of the training center, for the purpose for which these sums are appropriated.



SECTION 45. Provided that of the general fund appropriation for solids, liquids, gases and noise (HTH 840), the sum of \$115,000 shall be expended in fiscal year 1987-88 and \$115,000 in fiscal year 1988-89 to support the implementation of title III of the federal superfund amendments and reorganization act of 1986, entitled: the federal emergency planning and community right-to-know act of 1986; provided further that the department of health shall:

- (1) Form a state emergency response commission;
- (2) Designate local emergency planning districts; and
- (3) Develop local emergency planning committees to develop and implement local emergency response plans in coordination with local industries and firms which produce, use, or store extremely hazardous substances;

provided further that the purpose of each local emergency response plan is to prepare state and local agencies to respond to accidental releases of hazardous substances; provided further that a report on these actions and the implementation of title III of the federal superfund amendments and reauthorization act of 1986 shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 46. Provided that of the federal funded positions authorized to solids, liquids, gases, and noise (HTH 840), one position count in the air laboratory section shall be for computer programming technician to ensure continuity in the responsibilities that are ongoing and expanding.

SECTION 47. Provided that the department of land and natural resources shall submit a comprehensive progress report of the expenditures, research efforts, and fundings of the clidemia-banana poka control project; provided further that the report shall be submitted to the legislature twenty days before the convening of the 1988 and 1989 regular session.

SECTION 48. Provided that of the general fund appropriation for policy, development, coordination and analysis for natural physical environment (HTH 850), the sum of \$100,000 in fiscal year 1987-88 shall be expended by the office of environmental quality control to establish and operate a pilot program for the safe disposal of hazardous agricultural pesticides; provided further that a report on the pilot program and usage of funds shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 49. Provided that of the general fund appropriation for natural physical environment (LNR 906), the sum of \$250,000 in fiscal year 1987-88 and \$250,000 in fiscal year 1988-89 shall be used by the management of the natural area reserves system to develop programs for the natural area reserves.

SECTION 50. Provided that of the general fund appropriation for health-natural physical environment (HTH 849), the sum of \$80,000 in fiscal year 1987-88 and \$80,000 in fiscal year 1988-89 shall be expended for four temporary positions for litter control and beautification projects; provided further that two positions shall be assigned to Maui and one position each shall be assigned to Hawaii and Kauai.

## HEALTH

SECTION 51. Provided that of the general fund appropriation for sexually transmitted diseases (HTH 121), the sum of \$130,091 in fiscal year

## ACT 216

1987-88 and \$130,091 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 52. Provided that of the general fund appropriation for other communicable diseases (HTH 131), the sum of \$100,000 in fiscal year 1987-88 shall be expended for hepatitis B vaccination of staff and mentally retarded children who are currently in Hawaii's public school system.

SECTION 53. Provided that of the general fund appropriation for supporting services for communicable diseases (HTH 139), the sum of \$94,752 in fiscal year 1987-88 and \$83,727 in fiscal year 1988-89 shall be expended for three full time permanent positions and related expenses to provide staff support for a program designed to address the AIDS crisis in Hawaii; provided further that the specific functions and activities of the program shall be to 1) develop a community/government based public policy on AIDS, 2) act as an evaluating and recommending body for all community/government plans for AIDS service support and research, 3) review and advise on all program plans or proposals utilizing state, federal, or private funds, 4) provide an ongoing review of problems and needs of the community associated with AIDS, and 5) provide consultation and advice to government and the private sector regarding the state AIDS plan.

SECTION 54. Provided that of the general fund appropriation for chronic diseases (HTH 151), the sum of ~~\$220,359~~ \$170,359 in fiscal year 1987-88 and \$171,866 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 55. Provided that of the federal fund appropriation for nutrition services (HTH 160), the sum of \$204,700 in fiscal year 1987-88 and \$225,170 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 56. Provided that of the general fund appropriation for nutrition services (HTH 160), the sum of \$47,597 in fiscal year 1987-88 and \$58,146 in fiscal year 1988-89 shall be expended to provide monitoring and assistance services for adult residential care homes.

SECTION 57. Provided that of the general fund expenditure for emergency medical services (HTH 170), the sum of \$380,779 in fiscal year 1987-88 and \$332,263 in fiscal year 1988-89 shall be expended to contract for ambulance services in the Ka'u area.

SECTION 58. Provided that of the general fund appropriation for emergency medical services (HTH 170), the sum of \$178,611 in fiscal year 1987-88 and \$178,611 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 59. Provided that of the general fund appropriation for family planning (HTH 185), the sum of \$509,892 in fiscal year 1987-88 and \$530,798 in fiscal year 1988-89 shall be used for purchase of service; provided further that of the federal funds authorized, the sum of \$419,833 in fiscal year 1987-88 and \$414,974 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 60. Provided that of the general fund appropriation for school health services (HTH 191), the sum of \$195,424 in fiscal year 1987-88 and \$219,352 in fiscal year 1988-89 shall be expended for the purposes of placing licensed practical nurses in the severely multiply handicapped centers statewide; provided further that \$56,592 in fiscal year 1987-88 and

\$56,592 in fiscal year 1988-89 shall be used for paramedical assistants to aid in physical therapy services in the central and leeward Oahu school districts.

SECTION 61. Provided that of the general fund appropriation for school health services (HTH 191), the sum of \$150,000 in fiscal year 1987-88 and \$75,000 in fiscal year 1988-89 shall be used for physical and occupational therapy services-on-a-fee for service basis to provide services to handicapped students in the department of education.

SECTION 62. Provided that of the general fund appropriation for health care services (HTH 801), the sum of \$619,231 in fiscal year 1987-88 and \$628,563 in fiscal year 1988-89 shall be used for purchase of service; provided further that of the federal funds authorized, the sum of \$183,200 in fiscal year 1987-88 and \$183,200 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 63. Provided that of the general fund appropriation for Kula hospital (HTH 223), the sum of \$60,000 in fiscal year 1987-88 shall be expended to determine the need, type, financing, and management of elderly housing facilities on the Kula hospital grounds.

SECTION 64. Provided that of the general fund appropriation for community based services for mental health (HTH 401), the sum of \$503,000 in fiscal year 1987-88 shall be for a community-based employment and housing program model pilot project to employ the chronically mentally ill; provided further that the department of health shall submit a report on the status of the pilot project and the expenditures twenty days prior to the convening of the 1988 regular session.

SECTION 65. Provided that of the general fund appropriation for community based services for mental health (HTH 401), the sum of ~~\$7,863,280~~<sup>1</sup> \$7,398,280 in fiscal year 1987-88 and ~~\$8,167,376~~<sup>1</sup> \$7,718,376 in fiscal year 1988-89 shall be used for purchase of service; provided further that of the federal funds authorized, the sum of \$2,249,912 in fiscal year 1987-88 and \$2,250,392 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 66. Provided that of the general fund appropriation for Hawaii state hospital (HTH 430), the sum of \$104,788 in fiscal year 1987-88 shall be to provide an adolescent day program; provided further that the day treatment services shall be provided in the community.

SECTION 67. Provided that of the general fund appropriation for Hawaii state hospital (HTH 430), the sum of \$225,264 in fiscal year 1987-88 and \$270,344 in fiscal year 1988-89 shall be expended to expand the children's inpatient services at Leahi hospital from a five day-a-week program to a seven day-a-week program.

SECTION 68. Provided that of the general fund appropriation to Hawaii state hospital (HTH 430), the sum of \$128,000 in fiscal year 1987-88 and \$128,000 in fiscal year 1988-89 shall be to provide clinical staff for the Leahi children's inpatient unit.

SECTION 69. Provided that of the general fund appropriation for identification, evaluation, and treatment for developmentally disabled (HTH 500), the sum of \$1,377,875 in fiscal year 1987-88 and \$1,434,368 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 70. Provided that of the general fund appropriation for community services for developmentally disabled (HTH 501), the sum of

## ACT 216

\$200,000 in fiscal year 1987-88 and \$200,000 in fiscal year 1988-89 shall be used to place individuals into the ICF/MR, nursing home without walls, and other medicaid programs; provided further that these funds shall be used for individuals who are not currently receiving medical or financial assistance through Waimano training school and hospital.

SECTION 71. Provided that of the general fund appropriation for community based services for developmentally disabled (HTH 501), the sum of \$115,000 in fiscal year 1987-88 and \$115,000 in fiscal year 1988-89 shall be expended to provide support services to families with developmentally disabled children.

SECTION 72. Provided that of the general fund appropriation for community based services for developmentally disabled (HTH 501), the sum of \$2,740,890 in fiscal year 1987-88 and \$3,025,144 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 73. Provided that of the general fund appropriation for Waimano training school and hospital (HTH 511), the sum of \$25,000 in fiscal year 1987-88 shall be used for the purchase of wheelchairs; provided further that the sum of \$5,000 in fiscal year 1987-88 shall be used to purchase an auditory training unit.

SECTION 74. Provided that of the general fund appropriation for Waimano training school and hospital (HTH 511), the sum of \$1,547,600 in fiscal year 1987-88 and \$2,073,200 in fiscal year 1988-89 shall be for medicaid matching funds to be used to continue and accelerate community placements into the small ICF/MR and other medicaid programs; provided further that Waimano training school and hospital shall:

- (1) Continue to place residents in the small ICF/MR and other medicaid programs;
- (2) Consolidate the residential, medical and other program activities within the complex;
- (3) Take actions to decrease total expenses related to the reduced patient census at Waimano; and
- (4) Use excess funds resulting from the decrease in census for additional prevention, treatment and support services for the developmentally disabled.

Provided further that a report on these actions and the deinstitutionalization progress and the usage of funds shall be made and submitted to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 75. Provided that Waimano training school and hospital (HTH 511), shall assess their needs regarding the deinstitutionalization of patients and develop a 5 year program plan which shall address the following:

- (1) Projected patient census and community placements at Waimano training school and hospital;
- (2) Projected personnel requirements and plans for trade-off/transfer within the developmental disabilities division or redescription of current staff;
- (3) Operational and facility consolidation including building remodeling or renovation for Waimano programs as well as for buildings leased to private agencies for day treatment programs, and estimated costs of each project; and
- (4) Projected expenditures and savings to be incurred as a result of the lower census;

provided further that a report shall be submitted twenty days prior to the convening of the 1988 regular session; provided further that the state council on developmental disabilities shall review the report and submit its comments to the legislature prior to February 1, 1988.

SECTION 76. Provided that of the general fund appropriation for Waimano training school and hospital (HTH 511), the sum of \$864,000 in fiscal year 1987-88 and \$891,000 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 77. Provided that of the general fund appropriation for drinking water quality (HTH 621), the sum of \$531,466 in fiscal year 1987-88 and \$439,187 in fiscal year 1988-89 shall be for increased requirements due to state conformance with the federal safe drinking water act amendments of 1986; provided further that if additional federal funds are made available to the State, the general fund appropriation shall be decreased to the extent of the federal funds received for this purpose.

SECTION 78. Provided that of the general fund appropriation for drinking water quality (HTH 621), the sum of \$177,000 in fiscal year 1987-88 and \$168,000 in fiscal year 1988-89 shall be expended to carry out the purposes enacted by Act 220/86 Session Laws of Hawaii, for ground water protection; provided further that this program shall be transferred from natural physical environment (HTH 849), for a more integrated and coordinated monitoring of Hawaii's drinking water supply.

SECTION 79. Provided that of the general fund appropriation for laboratory services (HTH 901), the sum of \$220,500 in fiscal year 1987-88 shall be expended for the relocation of the air laboratory out of Kinau Hale; provided further that the relocation expenditures shall include, but not be limited to: rental of land, building, utilities and other expenses relating to this relocation; provided further that a report on the actions, the relocation, and the usage of funds shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 80. Provided that of the general fund appropriation for public health nursing services (HTH 902), the sum of \$80,000 in fiscal year 1987-88 and \$80,000 in fiscal year 1988-89 shall be used to hire additional personnel to provide services to children and families identified through the healthy start program; provided further the additional personnel hired shall be for Waianae, leeward Oahu, and Maui/Molokai; provided further the department of health and the purchase of service providers participating in the healthy start program shall coordinate activities and services consistent with the intent and approach of the healthy start program; provided further that the department of health and the Hawaii family stress center shall design an application of the healthy start program in the Kona area utilizing the midwife network in identifying children and families for outreach and intervention services.

SECTION 81. Provided that of the general fund appropriation for public health nursing (HTH 902), the sum of \$89,670 in fiscal year 1987-88 and \$121,695 in fiscal year 1988-89 shall be expended to monitor and assist with the adult residential care homes statewide.

SECTION 82. Provided that of the general fund appropriation for health education (HTH 908), the sum of \$34,809 in fiscal year 1987-88 and \$40,555 in fiscal year 1988-89 shall be to provide health education services in the Kona area.

## ACT 216

SECTION 83. Provided that of the general fund appropriation for health education (HTH 908), the sum of \$100,000 in fiscal year 1987-88 and \$100,000 in fiscal year 1988-89 shall be expended on health promotion and disease prevention.

SECTION 84. Provided that of the general fund appropriation for health education (HTH 908), the sum of ~~\$125,573~~<sup>1</sup> \$59,173 in fiscal year 1987-88 and ~~\$121,573~~<sup>1</sup> \$59,173 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 85. Provided that of the general fund appropriation for comprehensive state planning (HTH 906), the sum of \$25,262 in fiscal year 1987-88 and \$25,262 in fiscal year 1988-89 shall be used for a health resource analyst to perform studies and analysis in the area of medical care cost containment.

SECTION 86. Provided that of the general fund appropriation for general administration (HTH 907), the sum of \$177,573 in fiscal year 1987-88 and \$177,573 in fiscal year 1988-89 shall be used for purchase of service; provided further that of the federal funds authorized, the sum of \$9,480 in fiscal year 1987-88 and \$9,480 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 87. Provided that the legislative auditor shall conduct a financial study of the county/state hospitals division; provided further that the study shall include but not be limited to a review of federal, state, and other revenues, expenditures, special funds, and all accounts maintained by the county/state hospitals division; provided that the legislative auditor shall update report number 85-10, budget review and analysis: county/state hospital program and the health care payments programs; provided further that a report of the findings and recommendations shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session; and provided further that the report shall contain recommendations on the budgeting and financial record keeping necessary and appropriate for the formation and operation of a hospital authority composed of the present county/state hospitals division, including statutory language necessary to ensure such record keeping.

SECTION 88. Provided that the department of health is authorized to trade off, transfer, or establish positions within the existing authorized position counts for the purpose of maximizing the utilization of personnel resources and staff productivity.

Provided further that the department of health shall submit a report to the legislature twenty days prior to the convening of the 1988 regular session on (1) the status of all positions provided for in this Act; (2) the status and number of temporary positions authorized by the director of health through delegated gubernatorial authority for the fiscal years 1987-88 and 1988-89 by year; and (3) the action plans employed by the department to correct deficiencies in such areas as staff utilization, staffing patterns, and other external forces limiting programs efficiencies for both general fund and special fund positions; provided further that if any of the newly approved positions created by trade off, transfer, or establishment by the department within the existing authorized position counts are not filled by the end of the 1987-88 fiscal year, the position count and funds authorized for such positions shall lapse; provided further that the department of health shall present to the legislature by January 1, 1988, (1) a plan for all reorganizations, if any, within which the aforementioned new positions shall be placed, (2) an

explanation of the advantages of the reorganizations, and (3) a plan indicating how positions are to be traded off, transferred, or established within the provisions of this Act.

## SOCIAL SERVICES

SECTION 89. Provided that of the general fund appropriation for services to individuals and families (SOC 111), the sum of \$84,000 in fiscal year 1987-88 shall be used for purchasing services required to investigate and provide support services for abuse or neglect of elderly persons; provided further that the services may be provided by medical and nursing specialists, legal and financial experts, and any other persons as the department may deem necessary to provide support services.

SECTION 90. Provided that of the general fund appropriation for services to individuals and families (SOC 111), the sum of \$30,000 in fiscal year 1987-88 and \$30,000 in fiscal year 1988-89 shall be used for expanding the services under the respite services program.

SECTION 91. Provided that of the general fund appropriation for services to individuals and families (SOC 111), the sum of ~~\$5,590,669~~<sup>1</sup> \$5,340,669 in fiscal year 1987-88 and ~~\$5,598,021~~<sup>1</sup> \$5,348,021 in fiscal year 1988-89 shall be used for purchase of service; provided further of the federal funds authorized, the sum of \$3,183,763 in fiscal year 1987-88 and \$3,183,763 in fiscal year 1988-89 shall be used for purchase of services; provided further that of the preceding general funds, \$300,000 in fiscal year 1987-88 and \$300,000 in fiscal year 1988-89 shall be used for child care payments for family day care services to the developmentally delayed.

SECTION 92. Provided that of the general fund appropriation for services to individuals and families (SOC 111), the sum of \$50,000 in fiscal year 1987-88 shall be used as a grants-in-aid to the boys and girls club of Waianae; provided further that the sum of \$37,500 in each year of the fiscal biennium 1987-89 shall be used as a grants-in-aid to the boys and girls club of Honolulu.

SECTION 93. Provided that of the general fund appropriation for rental housing augmentation and assistance (SOC 220), the sum of \$1,000,000 in fiscal year 1987-88 shall be paid into the rental assistance fund created in section 356-303, Hawaii Revised Statutes.

SECTION 94. Provided that of the general fund appropriation for private housing development and ownership (SOC 225), the sum of ~~\$178,204~~<sup>1</sup> 0 in fiscal year 1987-88 and ~~\$182,114~~<sup>1</sup> 0 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 95. Provided that of the general fund appropriation for private housing development and ownership (SOC 225), the sum of \$500,000 in fiscal year 1987-88 shall be used by the Hawaii housing authority for low-interest loans for self-help home construction for holders of Milolii state leases; provided further that each loan shall not exceed \$20,000; provided further that the loans are to be used for compost toilets, water desalination, energy alternatives, village land improvements and other related costs.

SECTION 96. Provided that in establishing fees for individual practitioners for health care payments (SOC 230) in each year of the fiscal biennium 1987-89, the department of social services and housing shall use 56 percent of the 1986 profile of usual and customary fees of health care

## ACT 216

practitioners adjusted to the 75th percentile within the limits of this appropriation; provided further that the reimbursement shall not be less than the amount provided for fiscal year 1986-87.

SECTION 97. Provided that of the general fund appropriation for eligibility determination (SOC 236), the sum of \$600,000 in fiscal year 1987-88 and \$1,200,000 in fiscal year 1988-89 shall be used for the voluntary workfare program.

SECTION 98. Provided that the department of social services and housing shall be allowed to transfer savings from any program within the department to eligibility determination (SOC 236), to address any cash shortfall based on the current appropriation for fiscal year 1987-88, caused by unanticipated delays in federal fund reimbursements for the acquisition of a mainframe computer for the Hawaii automated welfare information system (HAWI); provided further that the department shall submit a report of such transfers to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 99. Provided that of the general fund appropriation for planning, program development and coordination of services for children and youth (GOV 861), the sum of \$50,000 in fiscal year 1987-88 shall be used to plan, organize, and conduct a conference on children and adolescents addressing the issue of child abuse and neglect; provided further that the office of children and youth shall submit a report of specific concerns and recommendations to the governor and the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 100. Provided that of the general fund appropriation for planning, program development and coordination of services for the elderly (GOV 602), the sum of \$50,000 in fiscal year 1987-88 shall be used to conduct a continuing publicity and education program relating to elderly abuse or neglect, a training program for persons required to report suspected cases of elderly abuse or neglect, and a public awareness and education program.

SECTION 101. Provided that of the general fund appropriation for planning, program development and coordination of services for the elderly (GOV 602), the sum of \$20,000 in fiscal year 1987-88 shall be used for the purpose of developing a resource inventory of senior citizens in the state of Hawaii; provided further that these findings shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 102. Provided that of the general fund appropriation for planning, program development and coordination of services for the elderly (GOV 602), the sum of \$3,924,589<sup>1</sup> \$3,884,589 in fiscal year 1987-88 and \$3,891,890<sup>1</sup> \$3,851,890 in fiscal year 1988-89, shall be used for purchase of service; provided further that of the appropriation for purchase of service, the sum of \$244,318 in each fiscal year of the biennium shall be used for tuition subsidy for the elderly.

SECTION 103. Provided that of the general fund appropriation for planning, program development and coordination of services for the elderly (GOV 602), the sum of \$37,000 in fiscal year 1987-88 and \$36,024 in fiscal year 1988-89 shall be used to develop a respite care network for the elderly.



**FORMAL EDUCATION**

SECTION 104. Provided that the amounts shown for regular instruction (EDN 105) are intended for regular instruction student enrollment projections of 157,251 for fiscal year 1987-88 and 159,139 for fiscal year 1988-89; and provided further that the amounts shown for special education (EDN 107) are intended for special education student enrollment projections of 8,710 for fiscal year 1987-88 and 8,584 for fiscal year 1988-89.

SECTION 105. Provided that of the general fund appropriation for regular instruction (EDN 105), the sum of \$5,256,246 for fiscal year 1987-88 and \$7,106,427 for fiscal year 1988-89 shall be used to reduce class size in the elementary grades; provided further that the IRA positions shall not be used to reduce class size.

SECTION 106. Provided that of the general fund appropriation for regular instruction (EDN 105), the sum of \$630,000 for fiscal year 1987-88 and \$630,000 for fiscal year 1988-89 shall be used for science, music, vocational education, and athletic safety equipment not normally replaceable through the regular allotment.

SECTION 107. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$809,383 for fiscal year 1987-88 and \$959,017 for fiscal year 1988-89 shall be used to improve instruction for gifted and talented students.

SECTION 108. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$386,269 for fiscal year 1987-88 and \$463,540 for fiscal year 1988-89 shall be used for educational assistants to improve instruction in the intermediate grades.

SECTION 109. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$578,303 for fiscal year 1988-89 shall be used for the full implementation of the Hawaiian studies program in grades K-6.

SECTION 110. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$1,115,148 for fiscal year 1987-88 and \$1,338,132 for fiscal year 1988-89 shall be used to improve instruction in the core subjects for high school students.

SECTION 111. Provided that the general fund appropriation for other regular instruction (EDN 106) includes the sum of \$205,422 and 14 positions for fiscal year 1987-88 and \$246,498 and 14 positions for fiscal year 1988-89 transferred from the student activities program (EDN 207) to provide half-time coordinators for intermediate schools through the primary instructional needs program.

SECTION 112. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$587,000 for fiscal year 1987-88 shall be used to continue the learning centers initiated in January 1987; provided further that the learning centers shall be evaluated by the department of education and the results of the evaluation shall be submitted to the legislature prior to the convening of the 1988 regular session.

SECTION 113. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$50,000 for fiscal year 1987-88 shall be used to plan the distance learning program; provided further that the department of education shall submit the plan, including a pilot test of

## ACT 216

the plan and an evaluation of the pilot test to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 114. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$161,900 for fiscal year 1987-88 and \$161,900 for fiscal year 1988-89 shall be used to provide for the increased cost of tuition waivers and to provide subsidies to the smaller communities to allow them to offer summer school on an equitable basis.

SECTION 115. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$250,000 in fiscal year 1988-89 shall be used to implement the Asian, European, and Pacific language programs at the fifth and sixth grade levels; provided further that a plan shall be developed for continuity of foreign language programs between elementary, intermediate, and high school levels within each school complex; provided further that an evaluation of this program shall be conducted and submitted to the legislature twenty days prior to the convening of the 1988 and 1989 regular sessions.

SECTION 116. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$193,975 for fiscal year 1987-88 and \$193,975 for fiscal year 1988-89 shall be used to pilot the year round school concept at Waihee school on Maui subject to negotiations, pursuant to Hawaii Revised Statute Chapter 89, between the parties; provided further that the department of education shall submit a plan for the pilot test of the year round school concept for an intermediate and a high school to the legislature prior to the convening of the 1988 regular session.

SECTION 117. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$75,000 for fiscal year 1987-88 and \$75,000 for fiscal year 1988-89 shall be used to implement the Hawaii lions drug awareness program (lions-quest) in intermediate and high schools.

SECTION 118. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$19,640 for fiscal year 1987-88 and \$19,640 for fiscal year 1988-89 shall be used to provide teacher training and resource material publications for a program to combat substance abuse and anti-social behavior among seventh and eighth grade students in the Kauai school district.

SECTION 119. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$14,000 for fiscal year 1987-88 and \$14,000 for fiscal year 1988-89 shall be used to provide honorariums to teachers in public and private schools whose innovations are selected for publication and circulation in What Works in Hawaii's Schools.

SECTION 120. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$75,000 in fiscal year 1987-88 shall be used for a pilot project of homework hotlines to provide homework help by telephone to students; provided further that homework hotlines shall be staffed voluntarily by teachers who shall be paid an appropriate hourly rate and who shall provide the service from places that are convenient to them; provided further that the department of education, after a progress evaluation of the pilot project, shall submit a report to the legislature twenty days prior to the convening of the 1988 regular session on the resource requirements and design for additional homework hotlines to be established in the 1988-89 school year.

SECTION 121. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$141,000 for fiscal year 1987-88 shall be used to provide students with a greater awareness of jazz through the music education programs of the Hawaii jazz preservation society.

SECTION 122. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$15,000 in fiscal year 1987-88 and \$15,000 in fiscal year 1988-89 shall be used to pilot test in the windward school district a computer-based instruction system, known as the "writing to read" program, to develop the writing and reading skills of kindergarten and first-grade students; provided further that an evaluation of this project shall be submitted to the legislature twenty days prior to the convening of the 1988 and 1989 regular sessions.

SECTION 123. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$88,000 for fiscal year 1987-88 shall be used to enable students and teachers from high schools to attend the planetary society conference scheduled for August, 1987.

SECTION 124. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$54,657 for each year of the fiscal biennium 1987-89 shall be used for the Newcomer program of Kalihi-Palama immigrant service center.

SECTION 125. Provided that of the general fund appropriation to other regular instruction (EDN 106), the sum of \$20,000 for fiscal year 1987-88 shall be expended to allow four student representatives and one advisor to attend the future homemakers of America national leadership conference.

SECTION 126. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$147,984 in fiscal year 1987-88 shall be expended on AIDS interim student awareness development, an AIDS awareness program for secondary schools; provided further that an evaluation of this program shall be submitted to the legislature at least twenty days prior to the convening of the 1988 and 1989 regular sessions.

SECTION 127. Provided that of the general fund appropriation for exceptional child (EDN 107), the sum of \$530,943 in fiscal year 1987-88 and \$630,294 in fiscal year 1988-89 shall be used to improve basic instruction for handicapped students.

SECTION 128. Provided that the department of education shall make no changes in the use of the Diamond Head campus of the Hawaii school for the deaf and the blind (EDN 107) until further assessment is made and approved by the legislature for its greater usage by more students.

SECTION 129. Provided that of the general fund appropriation for compensatory education (EDN 108), the sum of \$621,642 for fiscal year 1987-88 and \$562,596 for fiscal year 1988-89 shall be used to establish the improved instruction for the alienated students program.

SECTION 130. Provided that of the general fund appropriation for compensatory education (EDN 108), the sum of \$168,614 for fiscal year 1987-88 and \$168,614 for fiscal year 1988-89 shall be used for Olomana youth correctional facility.

SECTION 131. Provided that of the general fund appropriation for compensatory education (EDN 108), the sum of \$53,752 for fiscal year

## ACT 216

1987-88 and \$55,354 for fiscal year 1988-89 shall be used to provide services to high school dropouts through the Maui hui malama program.

SECTION 132. Provided that of the general fund appropriation for compensatory education (EDN 108), the sum of \$527,276 in fiscal year 1987-88 and \$544,078 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 133. Provided that of the general fund appropriation for compensatory education (EDN 108), the sum of \$300,000 for fiscal year 1987-88 and \$300,000 for fiscal year 1988-89 shall be used to establish real-life skill and career centers to provide high school students with vocational and academic programs geared to employment opportunities; provided further that the program shall be contracted with the employment training office of the university of Hawaii, and that the first such center shall be established at 620 Pensacola street in facilities vacated by Kapiolani community college; provided further that any use of such facilities shall be first coordinated with and mutually agreed to between the department of education and the university of Hawaii.

SECTION 134. Provided that of the general fund appropriation for school administration (EDN 203), the sum of \$139,393 for fiscal year 1987-88 and \$167,267 for fiscal year 1988-89 shall be used to provide registrars for intermediate schools.

SECTION 135. Provided that of the general fund appropriation for school administration (EDN 203), the sum of \$400,890 for fiscal year 1987-88 and \$476,154 for fiscal year 1988-89 shall be used for vice principals to improve the administrative services for the larger high schools.

SECTION 136. Provided that of the general fund appropriation for school administration (EDN 203), the sum of \$362,250 for fiscal year 1987-88 and \$740,750 for fiscal year 1988-89 shall be used for additional clerks to improve clerical services to teachers and other school staff.

SECTION 137. Provided that in school administration (EDN 203), a temporary vice principal position in fiscal year 1987-88 shall be provided for Makawao school.

SECTION 138. Provided that of the general fund appropriation for instructional development (EDN 205), the sum of \$280,000 for fiscal year 1987-88 and \$280,000 for fiscal year 1988-89 shall be used for increase in salary differentials for student teacher supervisors and observation/participation teachers.

SECTION 139. Provided that of the general fund appropriation for instructional development (EDN 205), the sum of \$750,000 for fiscal year 1987-88 and \$750,000 for fiscal year 1988-89 shall be used for in-service training for teachers and includes funds for the hire of substitute teachers; provided further that the department of education, in consultation with the collective bargaining unit, shall determine which in-service training relating to language arts shall be mandatory; provided further that the department of education shall submit a report on in-service training to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 140. Provided that of the general fund appropriation for instructional development (EDN 205), the sum of \$9,000 for fiscal year 1988-89 shall be used for the department of education's supplemental budget request to help teachers in software evaluation.

SECTION 141. Provided that of the general fund appropriation for instructional development (EDN 205), the sum of \$10,000 for fiscal year 1987-88 and \$10,000 for fiscal year 1988-89 shall be expended for Ahuimanu school's "mastery in learning" project.

SECTION 142. Provided that of the general fund appropriation for counseling (EDN 206), the sum of \$218,246 for fiscal year 1987-88 and \$261,898 for fiscal year 1988-89 shall be used for additional counselors to improve counseling services for intermediate students.

SECTION 143. Provided that 33.0 positions in fiscal year 1987-88 and 33.0 positions in fiscal year 1988-89 in student activities (EDN 207) shall be converted to permanent student activities coordinator positions in the high schools.

SECTION 144. Provided that of the general fund appropriation for student activities (EDN 207), the sum of \$49,313 in fiscal year 1987-88 and \$49,313 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 145. Provided that of the general fund appropriation for the department of education, the sum of \$10,000,000 in fiscal year 1987-88 and \$10,000,000 in fiscal year 1988-89 shall be expended for initiatives to improve the quality of education in the public schools; provided further that these funds shall be used to match the reallocation of the existing general fund resources by the department of education on the basis of \$2 for each \$1 reallocated by the board of education; provided further that the plan for reallocation by the department shall be subject to the approval of the governor prior to the release of matching funds noted in this section; provided further that reporting requirements may be established by the governor as necessary; provided further that the department shall submit a report to the governor and the legislature on the expenditure of the funds, allocation of permanent positions, and an evaluation of the improvements resulting from its initiatives twenty days prior to the convening of the 1988 legislature.

SECTION 146. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$69,500 for fiscal year 1987-88 and \$74,900 for fiscal year 1988-89 shall be used to improve internal and external communication in the department of education.

SECTION 147. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$14,457 in fiscal year 1987-88 and \$15,760 in fiscal year 1988-89 shall be used for the board of education for compensation in direct relation to the anticipated increase in board meetings and for clerical assistance.

SECTION 148. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$35,778 for fiscal year 1987-88 and \$36,462 for fiscal year 1988-89 shall be used for student help, maintenance of microcomputer, and travel funds for recruitment of teachers in shortage categories.

SECTION 149. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$474,191 for fiscal year 1987-88 and \$393,546 for fiscal year 1988-89 shall be used for additional vice principal training slots.

## ACT 216

SECTION 150. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$124,432 for fiscal year 1987-88 shall be used to improve computer services to schools and districts.

SECTION 151. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$105,900 for fiscal year 1987-88 and \$105,900 for fiscal year 1988-89 shall be used to train the classified staff.

SECTION 152. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$163,000 for fiscal year 1987-88 and \$163,000 for fiscal year 1988-89 shall be used for the training of educational officers.

SECTION 153. Provided that the general fund appropriation for state administration (EDN 303), the sum of \$10,000 in fiscal year 1987-88 and \$10,000 in fiscal year 1988-89 shall be used for a protocol fund to be expended at the discretion of the superintendent of education.

SECTION 154. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$2,000,000 for fiscal year 1987-88 and \$287,190 for fiscal year 1988-89 shall be assigned to an educational superfund to be used at the discretion of the superintendent of education for additional furnishings, supplies, and equipment for schools with priority to be given to those expenditures which provide direct benefit to students and which promote their welfare; provided further that the superintendent of education shall consult with the district superintendents and school personnel in determining the uses of the superfund; provided further that any balance from the sum for fiscal year 1987-88 remaining on June 30, 1988, shall not lapse as of that date but may be expended in fiscal year 1988-89; provided further that the superintendent of education shall submit a report on the uses of the superfund to the 1988, 1989, and 1990 regular sessions of the legislature.

SECTION 155. Provided that of the general fund appropriation for district administration (EDN 304), the sum of \$31,369 and 2.0 positions for fiscal year 1987-88 and \$41,824 and 2.0 positions for fiscal year 1988-89 shall be used for one personnel specialist position and one personnel clerk position in the Kauai school district.

SECTION 156. Provided that of the general fund appropriation for safety and security services (EDN 306), the sum of \$75,000 for fiscal year 1987-88 and \$150,000 for fiscal 1988-89 shall be used to improve services by providing additional burglar alarms.

SECTION 157. Provided that of the general fund appropriation for physical plant operations and maintenance (EDN 307), the sum of \$22,680 for fiscal year 1987-88 and \$22,680 for fiscal year 1988-89 shall be used for custodians for Anuenue school.

SECTION 158. Provided that of the general fund appropriation for buildings repairs and alterations (AGS 233), the sum of \$37,800 and 3.0 positions for fiscal year 1987-88 and \$37,800 and 3.0 positions for fiscal year 1988-89 shall be used for a clerical typist in Hawaii, Kauai, and Maui.

SECTION 159. Provided that of the general fund appropriation for adult education (EDN 406), the sum of \$300,000 for fiscal year 1987-88 shall be used for parent education and to develop programs to involve the participation of parents in schools; provided further that parent education

and participation programs shall be tailored to meet the needs and conditions of individual schools; provided further that the effectiveness of parenting education centers shall be evaluated by the department of education and the results of the evaluation shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 160. Provided that of the general fund appropriation for adult education (EDN 406), the sum of \$250,888 for fiscal year 1987-88 and \$259,776 for fiscal year 1988-89 shall be used to improve adult education services statewide.

SECTION 161. Provided that of the general fund appropriation for public libraries (EDN 407), the sum of \$69,300 in fiscal year 1987-88 and \$78,700 in fiscal year 1988-89 shall be used for the rental of a facility for the facilities, security, and maintenance branch of the public library system.

SECTION 162. Provided that of the general fund appropriation for public libraries (EDN 407), the sum of \$15,000 for fiscal year 1987-88 and \$15,000 for fiscal year 1988-89 shall be used for an early education program in the public libraries with a children's program.

SECTION 163. Provided that of the general fund appropriation for public libraries (EDN 407), the sum of \$220,000 for the fiscal year 1987-88 shall be used for the procurement and installation of an air conditioning unit at the Kapaa public library.

SECTION 164. Provided that of the general fund appropriation to instruction, university of Hawaii, Manoa (UOH 101), the sum of \$287,847 in fiscal year 1987-88 and \$287,000 in fiscal year 1988-89 shall be expended for the purpose of recruiting and hiring new faculty; provided further that these funds may be matched by private contributions; provided further that the university of Hawaii shall submit a report of all general fund expenditures for this purpose to the legislature twenty days prior to the convening of the 1988 and 1989 regular session.

SECTION 165. Provided that of the general fund appropriation to instruction, university of Hawaii, Manoa (UOH 101), the sum of \$78,868 in fiscal year 1987-88 and \$78,868 in fiscal year 1988-89 and 1.0 position in each fiscal year shall be expended for a professor; provided further that a temporary clerical assistant may be hired for the hotel and restaurant management program, school of travel industry management.

SECTION 166. Provided that of the general fund appropriation for instruction, university of Hawaii, Manoa (UOH 101), the sum of \$10,000 in fiscal year 1987-88 and \$10,000 in fiscal year 1988-89 shall be used to supplement the operating expenses of the university of Hawaii-Manoa art gallery.

SECTION 167. Provided that of the general fund appropriation to the school of medicine, instruction, university of Hawaii, Manoa (UOH 101), the sum of \$102,850 in fiscal year 1987-88 shall be expended to develop a simplified test to detect ciguatoxin in fish; provided further that this project shall be done in conjunction with the department of land and natural resources.

SECTION 168. Provided that of the general fund appropriation to the college of tropical agriculture and human resources, organized research, university of Hawaii, Manoa (UOH 102), the sum of \$45,000 in fiscal year

## ACT 216

1987-88 shall be expended for the purpose of research and development of food processing using geothermal direct heat.

SECTION 169. Provided that of the general fund appropriation for organized research, university of Hawaii, Manoa (UOH 102), the sum of \$13,812 in each year of fiscal biennium 1987-89 shall be used for a clerk stenographer III position for the Lyon arboretum.

SECTION 170. Provided that of the general fund appropriation for organized research, university of Hawaii, Manoa (UOH 102), \$269,000 in fiscal year 1987-88 and \$269,000 in fiscal year 1988-89 shall be for the Pacific international center for high technology research.

SECTION 171. Provided that of the general fund appropriation for organized research, university of Hawaii, Manoa (UOH 102), the sum of \$100,000 or so much thereof as may be necessary in each year of the fiscal biennium 1987-89 shall be expended to continue the north Hawaii pasture and diversified crop program.

SECTION 172. Provided that the college of tropical agriculture and human resources, university of Hawaii, Manoa, shall conduct a survey and study of research projects pertaining to nematodes affecting the pineapple industry and other agricultural projects in Hawaii; provided further that the college shall submit a report on such study, including the costs and source of fundings for each kinds of research conducted in the past and currently underway, including the costs of research projects needed in the future.

SECTION 173. Provided that of the general fund appropriation for public service, university of Hawaii, Manoa (UOH 103), the sum of \$40,000 in fiscal year 1987-88 shall be expended by the center for labor education and research for production of an educational drama on the historic Hilo longshoremen's struggle.

SECTION 174. Provided that of the general fund appropriation for public service, university of Hawaii, Manoa (UOH 103) 1.0 position and the sum of \$27,624 in fiscal year 1987-88 and \$27,624 in fiscal year 1988-89 shall be used for a coordinator position for the family community leadership project.

SECTION 175. Provided that of the general fund appropriation for academic support, university of Hawaii, Manoa (UOH 104), the sum of \$133,041 in fiscal year 1987-88 and \$161,448 in fiscal year 1988-89 and 4.0 positions in each fiscal year shall be expended to establish a faculty and staff development program; provided further that this program shall be a component of a comprehensive personnel management program with emphasis in developing undergraduate teaching skills; provided further that the university of Hawaii shall submit a detailed implementation plan for personnel management, including the faculty and staff development program to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 176. Provided that of the general fund appropriation for academic support, university of Hawaii, Manoa (UOH 104), the sum of \$2,973,311 in fiscal year 1987-88 and the sum of \$3,419,303 in fiscal year 1988-89 shall be expended for library books, journals, and other periodicals; provided further that these amounts shall reflect an inflationary increase of 15 per cent over each previous fiscal year, respectively.

SECTION 177. Provided that of the general fund appropriation for student services, university of Hawaii, Manoa (UOH 105), the sum of



\$10,000 in fiscal year 1987-88 shall be for contract services for student affairs research and staff development.

SECTION 178. Provided that of the general fund appropriation for student services, university of Hawaii, Manoa (UOH 105), the sum of \$77,544 and 5.0 positions in fiscal year 1987-88 and \$103,392 and 5.0 positions in fiscal year 1988-89 shall be for one assistant women's basketball coach, one assistant women's athletic trainer, one groundskeeper, one janitor, and one assistant weight room coordinator for intercollegiate athletics.

SECTION 179. Provided that of the general fund appropriation for the university of Hawaii, the following sums shall be expended for minority student programs:

<u>Program ID</u>	<u>FY 1987-88</u>	<u>FY 1988-89</u>
UOH 105	\$ 25,000	\$ 25,000
UOH 215	\$ 25,000	\$ 25,000
UOH 906	\$ 25,000	\$ 25,000

and provided further that in the implementation of such programs, temporary positions may be utilized; provided further that a report of such programs shall be submitted to the legislature twenty days prior to the convening of the 1988 and 1989 regular sessions.

SECTION 180. Provided that of the general fund appropriations for the university of Hawaii, the sum of \$6,400,000 in fiscal year 1987-88 and \$5,500,000 in fiscal year 1988-89 shall be expended for nonrecurring equipment expenditures to (1) replace obsolete or inoperable educational classroom and scientific equipment, and (2) acquire new educational classroom or scientific equipment to keep pace with new technological advances in the following institutional support programs:

<u>PROGRAM ID</u>	<u>FY 1987-88</u>	<u>FY 1988-89</u>
UOH 106	\$ 4,947,235	\$ 4,518,184
UOH 216	188,420	236,650
UOH 906	1,264,345	745,166

provided further that the respective Manoa vice presidents' offices and the community colleges and west Oahu college/university of Hawaii, Hilo chancellors' offices shall act as the administrators for the expenditure of these funds in order to ensure conformance with legislative intent and institutional requirements; provided further that if there are any remaining funds in excess of each campus's instructional or research requirements under (1) or (2) of this section, each vice president or chancellor may use such funds to meet other institutional equipment needs with the exception of administration office equipment and furniture; provided further that the university shall report to the legislature on the expenditure of these funds twenty days prior to the convening of the 1988 and 1989 regular session.

SECTION 181. Provided that the general fund appropriation for level IV institutional support programs includes the following accounts for electricity costs:

<u>Program ID</u>	<u>FY 1987-88</u>	<u>FY 1988-89</u>
UOH 106	\$ 5,062,957	\$ 5,139,893
	85,522,935 KWH	86,822,527 KWH

**ACT 216**

	\$ .0592 /KWH	\$ .0592 /KWH
UOH 216	\$ 782,258	\$ 798,910
	6,445,726 KWH	6,445,726 KWH
	\$ .1167 /KWH	\$ .1167 /KWH
UOH 305	\$ 347,300	\$ 358,116
	5,137,568 KWH	5,297,568 KWH
	\$ .0676 /KWH	\$ .0676 /KWH
UOH 315	\$ 273,424	\$ 334,482
	3,318,242 KWH	4,059,242 KWH
	\$ .0824 /KWH	\$ .0824 /KWH
UOH 325	\$ 362,015	\$ 402,644
	4,513,900 KWH	4,493,900 KWH
	\$ .0802 /KWH	\$ .0902 /KWH
UOH 335	\$ 43,997	\$ 44,746
	705,080 KWH	717,080 KWH
	\$ .0624 /KWH	\$ .0624 /KWH
UOH 505	\$ 177,682	\$ 195,732
	1,695,431 KWH	1,867,667 KWH
	\$ .1048 /KWH	\$ .1048 /KWH
UOH 605	\$ 263,378	\$ 263,378
	1,953,840 KWH	1,953,840 KWH
	\$ .1348 /KWH	\$ .1348 /KWH
UOH 706	\$ 22,228	\$ 22,228
	214,342 KWH	214,342 KWH
	\$ .1037 /KWH	\$ .1037 /KWH

As used in this section, "KWH" means kilowatt hours; provided further that the electricity rates and kilowatt usage as identified herein shall be used as a reference base by the university and the legislature in determining any deficits in funding for electricity; provided further that the legislative auditor shall conduct a study on general, special, federal, and revolving fund electricity costs and consumption at the university of Hawaii; provided further that this report shall include, but not be limited to, the following: actual consumption as compared to the original projections listed above and an explanation of any consumption variances; an assessment of existing and planned energy conservation measures employed by the university; and recommendations for energy conservation, including projected cost impacts to implement such measures and projected savings; and provided further that a preliminary report of its findings shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session; provided further that a final report of findings and recommendations shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.

SECTION 182. Provided that the university of Hawaii and the office of library services, department of education, shall review the possibility of relocating the Manoa library facility on university land in the vicinity;

provided further that the University of Hawaii and the office of library services shall submit a joint report of their findings and recommendations to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 183. Provided that of the general fund appropriation for institutional support, university of Hawaii, Manoa (UOH 106), the sum of \$10,812,042 in fiscal year 1987-88 and \$10,300,000 in fiscal year 1988-89 shall be expended for the following nonrecurring repair and maintenance projects:

<u>Project Description</u>	<u>FY 1987-88</u>	<u>FY 1988-89</u>
Replace/repair of air conditioning equipment, various buildings	2,400,000	1,565,000
Renovation and repair, state agriculture Halawa quarantine station cattery	65,000	
Repair of roof and flashings, aquarium	30,000	
Repair and maintenance, various buildings off Manoa Campus, college of tropical agriculture and human resources	785,000	875,000
Replacement/repairs to elevators, various buildings		500,000
Improvement of fire alarm systems, various buildings	225,000	
Replacement of floor coverings, various buildings	50,000	275,000
Replacement of steam generator, cancer research center	30,000	
General repairs, various buildings	1,537,042	1,150,000
Grounds maintenance	100,000	100,000
Replacement/repairs, irrigation systems	50,000	50,000
Replacement of lighting system, Kennedy Theatre	450,000	
Repairs to Look Lab, Kewalo Basin	75,000	90,000
Replacement of light fixtures, various buildings		650,000
Repairs to 88-inch telescope	100,000	

**ACT 216**

dome, Mauna Kea Observatory

Interior repairs, Orvis Auditorium		150,000
Repair and paint, quarry area		150,000
Repairs to roads	50,000	100,000
Exterior painting and repairs to various buildings	1,465,000	1,445,000
Reroofing of various buildings	3,400,000	3,200,000

to establish and implement a cyclical schedule of repair and maintenance of grounds and facilities within the fiscal biennium 1987-89; provided further that in the implementation of this requirement, the university of Hawaii may use its present staff, student help, and other such temporary personnel pursuant to section 76-16, Hawaii Revised Statutes; and unless otherwise prohibited by law, the university of Hawaii may make expenditures and enter into contracts for necessary equipment, supplies, materials, labor, professional services, and technical assistance to satisfy the objectives of this appropriation; provided further that unrequired funds from the repair and maintenance projects authorized under the terms of this section may be expended for other institutional repair and maintenance needs, including repairs of the university of Hawaii athletic facilities; and provided further that the university of Hawaii shall submit a status report of each of these repair and maintenance projects and expenditures to the legislature twenty days prior to the convening of the regular session of 1988 and 1989.

SECTION 184. Provided that of the general fund appropriation for instruction; university of Hawaii, Hilo (UOH 211), the sum of \$32,095 in fiscal year 1987-88 and \$35,000 in fiscal year 1988-89 shall be used for an assistant astronomer position to meet increased student demand for instruction.

SECTION 185. Provided that of the general fund appropriation for instruction, university of Hawaii, Hilo (UOH 211), the sum of \$115,000 in fiscal year 1987-88 and \$115,000 in fiscal year 1988-89 shall be expended to enhance the research capabilities of the college of agriculture.

SECTION 186. Provided that of the general fund appropriation for public service, university of Hawaii, Hilo (UOH 213), the sum of \$32,000 in fiscal year 1987-88 and \$32,000 in fiscal year 1988-89 shall be expended for the summer science training program (SSTP).

SECTION 187. Provided that of the general fund appropriation for academic support, university of Hawaii, Hilo (UOH 214), the sum of \$399,479 in fiscal year 1987-88 and \$459,401 in fiscal year 1988-89 shall be expended for library books, journals, and other periodicals; provided further that these amounts shall reflect an inflationary increase of 15 per cent over each previous fiscal year, respectively.

SECTION 188. Provided that of the general fund appropriation for student services, university of Hawaii, Hilo (UOH 215), the sum of \$60,000 in fiscal year 1987-88 and \$50,000 in fiscal year 1988-89 shall be used for program initiatives in formulating a women's softball team.

SECTION 189. Provided that of the general fund appropriation for institutional support, university of Hawaii, Hilo (UOH 216), 2.0 positions and \$60,600 in fiscal year 1987-88 and \$65,807 in fiscal year 1988-89 shall be for a director of college relations position and a secretary position.

SECTION 190. Provided that of the general fund appropriation for institutional support, university of Hawaii, Hilo (UOH 216), the sum of \$1,195,000 in fiscal year 1987-88 and \$905,000 in fiscal year 1988-89 shall be expended for the following nonrecurring repair and maintenance projects:

<u>Project Description</u>	<u>FY 1987-88</u>	<u>FY 1988-89</u>
Reroof and replace gutters and downspouts, portable buildings 5, 6, 7	\$	\$ 80,000
Replace gutters and downspouts, Hale Ikena student apartments		35,000
Repair and replace roof, gutters, and exterior/interior painting for Hale Aloha student dormitory (HCC)		130,000
Repair and replace roof, gutters and downspouts, and exterior/interior painting for classroom buildings 380 and 381		170,000
Repair and replace roof, gutters and downspouts, and exterior/interior painting for classroom buildings 378 and 379 (HCC)		140,000
Reroof theatre	250,000	
Repair and reroof campus center dining room	190,000	
Repair, reroof, and paint exterior, college hall C	370,000	
Exterior and interior repairs and painting, life science building	45,000	
Reroof, exterior and interior repairs, and painting of old gym, locker/showers and auxiliary services	185,500	
Reroof, exterior and interior repairs, and painting of old gym, locker/showers and auxiliary services	39,500	
Repair and replace gutters and downspouts, cafeteria building 382 (HCC)	15,000	
Exterior and interior repairs and	40,000	

## ACT 216

painting, portable building 394 (HCC)

Repair roof and exterior and interior painting, electricity building 385A (HCC) 60,000

Repair and paint roof, gutters and downspouts, physical education facilities 100,000

Resurface tennis courts 100,000

Repair and paint roof, gutters and downspouts, and exterior and interior painting of college hall A & B 150,000

to establish and implement a cyclical schedule of repair and maintenance of grounds and facilities within the fiscal biennium 1987-89, and provided further that in the implementation of this requirement, the university of Hawaii may use its present staff, student help, and other such temporary personnel pursuant to section 76-16, Hawaii Revised Statutes; and unless otherwise prohibited by law, the university of Hawaii may make expenditures and enter into contracts for necessary equipment, supplies, materials, labor, professional services, and technical assistance to satisfy the objectives of this appropriation; provided further that unrequired funds from the repair and maintenance projects authorized under the terms of this section may be expended for other institutional repair and maintenance needs; provided further that the chancellor for the university of Hawaii, Hilo shall submit a status report and expenditure report of each of these repair and maintenance projects to the legislature twenty days prior to the convening of the regular session of 1988 and 1989.

SECTION 191. Provided that of the general fund appropriation to instruction, Honolulu community college (UOH 301), the sum of \$39,000 in fiscal year 1987-88 and \$39,000 in fiscal year 1988-89 shall be expended for a sign language interpreter training program.

SECTION 192. Provided that the mid-level technician program, instruction, Honolulu community college (UOH 301), shall submit an expenditure and progress report to the legislature twenty days prior to the convening of the regular session of 1988.

SECTION 193. Provided that of the general fund appropriation to instruction, leeward community college (UOH 321), the sum of \$125,000 in fiscal year 1988-89 shall be expended for special short-term vocational training related to the development of the west beach resort complex and the second urban area; provided further that these funds may be used to match private contributions.

SECTION 194. Provided that of the general fund appropriation for instruction, Kauai community college (UOH 601), 3.0 positions and \$100,044 in fiscal year 1987-88 and \$80,048 in fiscal year 1988-89 shall be used for an electronics and computer science instructor, a music instructor, a computing center manager, and staffing for the learning skills center.

SECTION 195. Provided that of the general fund appropriation for academic support, Kauai community college (UOH 603), 3.0 positions and

\$43,644 in fiscal year 1987-88 and \$46,500 in fiscal year 1988-89 shall be used for a library assistant III, a graphic artist, and a software and telecommunications coordinator.

SECTION 196. Provided that of the general fund appropriation for academic support, Kauai community college (UOH 603), 2.0 positions and the sum of \$36,120 in fiscal year 1987-88 and \$43,344 in fiscal year 1988-89 shall be for an assistant dean of instruction and clerk-steno III for Kauai community college.

SECTION 197. Provided that of the general fund appropriation for student services, Kauai community college (UOH 604), 1.0 positions and \$18,348 in fiscal year 1987-88 and \$20,016 in fiscal year 1988-89 shall be used for a counselor to provide outreach services including recruitment, academic advising, and follow-up services to the native Hawaiian population.

SECTION 198. Provided that of the general fund appropriation for academic support, university of Hawaii, system-wide support (UOH 901), the sum of \$40,000 in fiscal year 1987-88 and \$40,000 in fiscal year 1988-89 shall be for the western curriculum coordination center to provide curriculum materials to vocational education teachers.

SECTION 199. Provided that of the general fund appropriations for the university of Hawaii, the sum of \$8,476,832 and 220.25 positions in fiscal year 1987-88 and \$9,644,287 and 237.25 positions in fiscal year 1988-89 shall be used for the program initiative categories specified below:

<u>FY 1987-88</u>	<u>FY 1988-89</u>	<u>Program Initiative Category</u>
(37.50) \$ 910,413	(37.50) \$ 1,057,420	Student services
(17.00) \$ 683,395	(19.00) \$ 815,734	Marine and earth sciences
(8.00) \$ 692,532	(17.00) \$ 1,159,195	Asian and Pacific focus
(16.50) \$ 872,603	(18.50) \$ 1,027,002	Outreach
(58.00) \$ 1,792,768	(59.00) \$ 1,422,585	Modernization and high technology
(23.25) \$ 1,587,401	(23.25) \$ 1,752,962	Programs responsive to state needs
(60.00) \$ 1,937,720	(63.00) \$ 2,409,389	Assure quality of basic programs

Provided further that these funds shall be used by the university of Hawaii to strive for world excellence as a Pacific university as set forth in the university's Strategic Plan; provided further that the university of Hawaii shall submit a report to the legislature on the expenditure of these funds twenty

**ACT 216**

days prior to the convening of the 1988 and 1989 regular sessions; provided further that each report shall include for each program initiative: a description of the initiative; the projected fiscal year cost, including any applicable reallocation of positions or funds; the anticipated number of students or other clientele who will benefit from the initiative; the desired outcomes on students or other clientele anticipated as a result of the initiative, with measures of effectiveness for the initiative implemented; an evaluation of the initiative's progress toward achieving the desired outcomes identified; and a discussion of the initiative's contribution toward accomplishment of the goals set forth in the university's Strategic plan.

**SECTION 200.** Provided that of the general fund appropriation for institutional support, university of Hawaii, system-wide support (UOH 903), the sum of \$1,000,000 in fiscal year 1987-88 and \$1,000,000 in fiscal year 1988-89 shall be used to meet deficits in faculty salary allocations for permanent positions authorized as of June 30, 1987; provided further that the legislative auditor shall conduct a financial study of the University of Hawaii which shall include, but not be limited to, personal services allocations and a determination of any deficits incurred; provided further that a report of these findings and recommendations shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session.

**SECTION 201.** Provided that of the general fund appropriation for institutional support, university of Hawaii, Manoa systemwide support (UOH 903), 8.0 positions and the sum of \$503,750 in fiscal year 1987-88 and \$500,000 in fiscal year 1988-89 shall be expended to implement an integrated deferred and preventive maintenance program for facilities management.

**SECTION 202.** Provided that of the general fund appropriation for institutional support, university of Hawaii, system-wide support (UOH 903), the sum of \$15,000 in fiscal year 1987-88 and \$15,000 in fiscal year 1988-89 may be expended at the discretion of the president of the University of Hawaii.

**SECTION 203.** Provided that of the general fund appropriation for community college system-wide support (UOH 906), 1.0 position and the sum of \$39,996 in fiscal year 1987-88 and \$39,996 in fiscal year 1988-89 shall be used for a student affairs coordinator position for the community colleges.

**SECTION 204.** Provided that of the general fund appropriation for community college systemwide support (UOH 906), the sum of \$175,000 in fiscal year 1987-88 shall be used to renovate administration buildings 850 and 851 for the employment training office's clerical programs.

**SECTION 205.** Provided that of the general fund appropriation for community college systemwide support (UOH 906), the sum of \$3,664,600 in fiscal year 1987-88 shall be expended for the following nonrecurring repair and maintenance projects:

<u>Program ID</u>	<u>Project Description</u>	<u>FY 1987-88</u>
UOH 605	Repair leaks and rustproof buildings 454, 455	\$ 160,000
UOH 505	Repair termite damage, building 203, 204	106,000
UOH 325	Repair water leaks, various buildings	40,800
UOH 505	Treat shake roofs, various buildings	53,700



UOH 505	Repair wall cracks and repaint exterior Library, 224	50,500
UOH 605	Reroof and replace built-up asphaltic roofs buildings 453, 463A	53,500
UOH 605	Clean, repair and repaint metal roofs, various buildings	432,000
UOH 605	Clean, repair and repaint metal gutters, various buildings	20,000
UOH 335	Reroof buildings 982, 983	778,000
UOH 305	Replace air conditioning cooling tower, building 81	40,000
UOH 335	Repair air conditioning, buildings 977 and 978	38,200
UOH 325	Reroof D/A building 881	133,000
UOH 325	Reroof administration building 876	122,000
UOH 505	Repair and refinish metal work and repaint exterior of student center 232	202,500
UOH 305	Repaint exterior of various buildings	90,000
UOH 335	Repaint exterior of 3 buildings	43,800
UOH 335	Repaint exterior of buildings 976 and 980	27,700
UOH 325	Repair water damage, theatre building 885	36,000
UOH 505	Repaint interiors, various buildings	98,500
UOH 335	Replace ceiling, Eckerdt building 982	123,000
UOH 325	Repair and re-key campus locks	57,800
UOH 325	Refinish metal doors and frames	300,000
UOH 505	Repair and resurface 4 tennis courts	48,000
UOH 505	Repaint exterior, various buildings	61,700
UOH 505	Recoat roof of autobody shop 223	16,400
UOH 505	Repaint interior, various buildings	349,000
UOH 325	Replace theatre seats, building 885	75,000
UOH 325	Recarpet theatre stairs and aisles, building 885	13,500
UOH 335	Recarpet library building 977	34,200
UOH 505	Replace darkroom sinks and counter, library 224	20,000
UOH 505	Refurbish roof antenna and satellite dish	13,000
UOH 505	Install suspended ceiling, media center, library 224	12,300
UOH 505	Extension to agricultural storage, 234	14,500

to establish and implement a cyclical schedule of repair and maintenance of grounds and facilities within the fiscal biennium 1987-89; provided further that in the implementation of this requirement, the university of Hawaii may use its present staff, student help, and other such temporary personnel pursuant to section 76-16, Hawaii Revised Statutes; and unless otherwise prohibited by law, the university of Hawaii may make expenditures and enter into contracts for necessary equipment, supplies, materials, labor, professional services, and technical assistance to satisfy the objectives of this appropriation; provided further that unrequired funds from the repair and maintenance projects authorized under the terms of this section may be expended for other institutional repair and maintenance needs; provided further that the chancellor of community colleges shall submit a

## ACT 216

status report of each of these repair and maintenance projects and expenditures to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 206. Provided that the general fund appropriation for community college systemwide support (UOH 906) in fiscal year 1988-89 may be used for repairs and maintenance for the community colleges.

SECTION 207. Provided that the legislative auditor shall conduct further evaluation of the recent administrative reorganization of the university of Hawaii; provided further that the auditor shall submit a report of the auditor's findings and recommendations to the legislature twenty days prior to the convening of the 1988 regular session.

### CULTURE AND RECREATION

SECTION 208. Provided that of the general fund appropriation for Hawaii public broadcasting authority (CCA 701), the sum of \$200,000 in fiscal year 1987-88 and fiscal year 1988-89 shall be used for the production of a television documentary or a series of documentaries examining Hawaii's space assets and potential role in space research, exploration, and utilization.

SECTION 209. Provided that of the general fund appropriation for Hawaii public broadcasting (CCA 701), the sum of \$125,000 in fiscal year 1987-88 shall be expended for a permanent film and video archive.

SECTION 210. Provided that of the general fund appropriation for Hawaii public broadcasting (CCA 701), the sum of \$100,000 in fiscal year 1987-88 shall be expended for the production of a television documentary to be aired in conjunction with the "the year of the Hawaiian."

SECTION 211. Provided that of the general fund appropriation for performing and visual arts events (AGS 881), the sum of \$1,975,845<sup>1</sup> \$1,965,845 in fiscal year 1987-88 and \$1,958,345<sup>1</sup> \$1,948,345 in fiscal year 1988-89 shall be used for purchase of service; provided further that of the federal funds authorized, the sum of \$390,720 in fiscal year 1987-88 and \$390,720 in fiscal year 1988-89 shall be used for purchase of service.

SECTION 212. Provided that of the general fund appropriation for performing and visual arts events (AGS 881), the sum of \$1,875,000<sup>1</sup> \$1,525,000 shall be used for grants-in-aid.

SECTION 213. Provided that of the general fund appropriation for heritage and recreation parks (LNR 806), the sum of \$150,000 in fiscal year 1987-88 shall be used to fund the E'ala project in Waianae; provided further that the funds shall be expended based on priority of the board of land and natural resources in conjunction with the objectives of the twenty-five year plan for historic preservation in Waianae.

SECTION 214. Provided that of the general fund appropriation for heritage and recreation parks (LNR 806), the sum of \$60,000 in fiscal year 1987-88 and \$60,000 in fiscal year 1988-89 shall be used for the purpose of establishing a veterans cemetery on Oahu; provided further that the funds shall be used to prepare and process applications for federal cemetery funds, coordinate the plans, design and other tasks necessary, including the land acquisition, to accomplish the purpose of this section.

SECTION 215. Provided that of the special fund appropriation for spectator events and shows (AGS 889), a sum not to exceed \$5,000 in fiscal

year 1987-88 and fiscal year 1988-89 shall be expended at the discretion of the stadium manager for promotion and other stadium-related purposes.

## **PUBLIC SAFETY**

**SECTION 216.** Provided that of the general fund appropriation for intake service centers (SOC 394), the sum of \$109,320 in fiscal year 1987-88 and \$109,320 in fiscal year 1988-89 shall be expended for the youth development project.

**SECTION 217.** Provided that of the general fund appropriation for juvenile correctional facilities (SOC 401), the sum of \$36,400 in fiscal year 1987-88 and \$38,220 in fiscal year 1988-89 shall be used for purchase of service.

**SECTION 218.** Provided that of the positions and funds authorized to the department of social services and housing for the following correctional facilities: juvenile correctional facilities (SOC 401), high security facility (SOC 402), Kulani correctional facility (SOC 403), Waiawa correctional facility (SOC 404), Hawaii community correctional center (SOC 405), Maui community correctional center (SOC 406), Oahu community correctional center (SOC 407), Kauai community correctional center (SOC 408), and women's community correctional center (SOC 409), the department may transfer, with the approval of the governor, or the director of finance if so delegated by the governor, positions and position-related expenses between correctional facilities; provided further that such transfers shall be based upon corresponding estimates of inmate transfers between each affected correctional facility; provided further that an action plan shall be developed by the department of social services and housing prior to any transfers or requests for transfers to ensure the systematic and appropriate deployment of inmates and staff.

**SECTION 219.** Provided that of the general fund appropriation for Hawaii community correctional center (SOC 405), the sum of \$7,122 in fiscal year 1987-88 and \$7,478 in fiscal year 1988-89 shall be used for purchase of service.

**SECTION 220.** Provided that of the general fund appropriation for Maui community correctional center (SOC 406), the sum of \$15,000 in fiscal year 1987-88 shall be expended for equipment and tools for the work line program.

**SECTION 221.** Provided that of the general fund appropriation for Maui community correctional facility (SOC 406), the sum of \$4,680 in fiscal year 1987-88 and \$4,914 in fiscal year 1988-89 shall be used for purchase of service.

**SECTION 222.** Provided that of the general fund appropriation for Oahu community correctional center (SOC 407), the sum of \$855,547 in fiscal year 1987-88 and \$887,305 in fiscal year 1988-89 shall be used for purchase of service.

**SECTION 223.** Provided that of the general fund appropriation for Kauai community correctional facility (SOC 408), the sum of \$7,500 in fiscal year 1987-88 and \$7,835 in fiscal year 1988-89 shall be used for purchase of service.

**SECTION 224.** Provided that of the general fund appropriation for women's correctional center (SOC 409), the sum of \$214,506 in fiscal year

## **ACT 216**

1987-88 and \$222,309 in fiscal year 1988-89 shall be used for purchase of service.

**SECTION 225.** Provided that of the general fund appropriation for general administration - confinement (SOC 493), the sum of \$33,450 in fiscal year 1987-88 shall be expended for vocational education equipment for the educational program.

**SECTION 226.** Provided that of the general fund appropriations for general administration-confinement (SOC 493), the sum of \$124,626 in fiscal year 1987-88 and \$124,626 in fiscal year 1988-89 shall be for 6.0 deputy sheriff II positions to transfer inmates between correctional facilities and the courts; provided further that the funds shall lapse in the event that the department of corrections is not established by bill passed by the regular session of 1987.

**SECTION 227.** Provided that of the general fund appropriation for state criminal justice information and identification (ATG 231), the sum of \$44,782 in fiscal year 1987-88 and \$42,782 in fiscal year 1988-89 shall be used for the purpose of addressing the problem of backlog in the OBTS/CCH; provided further that in light of the ever increasing backlog problem of data entry among it's many user agencies, the attorney general shall investigate the possibility of implementing a computer interface between the Hawaii criminal justice data center and it's user agencies; provided further that a feasibility report shall be submitted to the legislature no later than twenty days prior to the convening of the 1988 regular session; provided further that this report shall reflect the attorney general's attempts at establishing a computer interface when applicable with each of Hawaii criminal justice data center's user agencies.

**SECTION 228.** Provided that of the general fund appropriation to amelioration of physical disasters (DEF 110), the sum of \$22,000<sup>1</sup> 0 in fiscal year 1987-88 shall be used for research and improvements to support and enhance the tsunami warning system; provided further that each county shall provide matching county funds of \$5,500.

## **INDIVIDUAL RIGHTS**

**SECTION 229.** Provided that of the general fund appropriation to insurance services (CCA 106), \$75,000 in each year of the fiscal biennium 1987-89 shall be used for a services on a fee basis contract to perform a review of health care insurance; provided further that the department of commerce and consumer affairs shall submit a preliminary report of the consultant's findings to the legislature twenty days prior to the convening of the regular session of 1988; provided further that the department of commerce and consumer affairs shall submit a final report of the consultant's findings and recommendations to the legislature twenty days prior to the convening of the regular session of 1989.

**SECTION 230.** Provided that of the general fund appropriation for professional, vocational and personal services (CCA 105), the sum of \$21,240 in fiscal year 1987-88 and \$21,240 in fiscal year 1988-89 shall be expended to establish a permanent real estate specialist position for the real estate commission to administer and regulate real estate licensees.

**SECTION 231.** Provided that of the general fund appropriation for business registration (CCA 111), the sum of \$160,014 for fiscal year 1987-88 and \$185,252 for fiscal year 1988-89 shall be used to establish a securities

fraud unit; provided further that the unit shall be staffed with five appropriate personnel, including legal support staff to conduct investigations of fraudulent investment practices.

SECTION 232. Provided that of the general fund appropriation for general support-protection of the consumer (CCA 191), \$35,000 in fiscal year 1987-88 and \$35,000 in fiscal year 1988-89 shall be used for a services on a fee basis contract to perform comparative cost analysis to study the high cost of goods in Hawaii compared to mainland costs.

SECTION 233. Provided that of the general fund appropriation for the office of the public defender (BUF 151), the sum of \$257,496 in fiscal year 1987-88 and \$257,496 in fiscal year 1988-89 shall be used to bring the public defender's salary structure to a more competitive and equitable level; as set forth in the following salary schedule:

Litigation/Research Director	49,461
Public Defender IV	46,988
Public Defender III	42,290
Public Defender II	38,061
Public Defender I	32,352
Law Clerk	27,500

Provided further that the general fund appropriation provided in this section shall be decreased by such amounts which are appropriated elsewhere for collective bargaining for excluded employees affected by this section.

**GOVERNMENT-WIDE SUPPORT**

SECTION 234. Provided that of the general fund appropriation for the office of the governor (GOV 100), \$300,000 in each year of the fiscal biennium 1987-89 shall be for the governor's contingency fund, which may be transferred to other programs and agencies and allotted, with the approval of the governor, for unexpected or unforeseen needs.

SECTION 235. Provided that the appropriation for the office of the governor (GOV 100) shall be expended at the discretion of the governor.

SECTION 236. Provided that of the funds appropriated for the office of the governor (GOV 100), the sum of \$263,420 in general funds and \$263,420 in matching private funds for fiscal year 1987-88 are authorized for the Honolulu chronic mentally ill project (HCMIP); provided further that expenditures of any general funds for the purposes of this project shall be contingent upon the receipt of equal amounts of private contributions from the Robert Wood Johnson grant; provided further that the office of the governor shall transfer such funds as may be necessary to the general administration programs of the departments of health (HTH 907) and social services and housing (SOC 904) for implementation of the purposes of the Honolulu chronic mentally ill project.

SECTION 237. Provided that of the general fund appropriation for the office of the lieutenant governor (LTG 100), the sum of \$20,000 in fiscal year 1987-88 shall be used by the campaign spending commission for the purchase of a computer program for use by candidates for public elective office.

SECTION 238. Provided that of the general fund appropriation for the office of the lieutenant governor (LTG 100), the sum of \$100,000 in fiscal

## ACT 216

year 1987-88 shall be used by the Hawaii criminal justice commission for public education activities.

**SECTION 239.** Provided that of the general fund appropriation for the office of the lieutenant governor (LTG 100), \$644,531 in fiscal year 1987-88 and \$647,967 in fiscal year 1988-89 shall be expended at the discretion of the lieutenant governor.

**SECTION 240.** Provided that of the general fund appropriation for the office of the lieutenant governor (LTG 100), the sum of \$275,000 or so much thereof as may be necessary in fiscal year 1987-88 and fiscal year 1988-89, shall be expended to conduct any special election which may be required by law; provided further that, if no special election is required, the sums shall not be expended and shall lapse into the general fund at the end of the respective fiscal year.

**SECTION 241.** Provided that any reimbursement of the sums expended from the general fund appropriation to the office of the lieutenant governor (LTG 100), for the purpose of conducting any county-associated elections in fiscal biennium 1987-89 shall be deposited into the general fund.

**SECTION 242.** Provided that of the general fund appropriation to program planning, analysis, and budgeting (BUF 101), the sum of \$50,000 in fiscal year 1988-89 shall be expended to develop the State of Hawaii industrial, economic and labor database (SHIELD) program to create a detailed economic information resource profile of the industrial, labor, and financial resource markets of Hawaii; provided further that a preliminary program proposal shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session; provided further that a status report of this program shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.

**SECTION 243.** Provided that of the general fund appropriation to program planning, analysis, and budgeting (BUF 101), the sum of \$350,000 in fiscal year 1987-88 shall be expended for consultant services to conduct (1) a study of the statewide organization of the government of the State of Hawaii, (2) a study of the records management systems of the government of the State of Hawaii, and (3) program evaluation training courses for State personnel; provided further that a status report of these programs shall be submitted to the legislature twenty days prior to the convening of the 1988 and 1989 regular sessions.

**SECTION 244.** Provided that of the general fund appropriation to program planning, analysis, and budgeting (BUF 101), the sum of \$50,000 in fiscal year 1988-89 shall be expended to initiate a "procedures for people" program to examine and streamline State government procedures; provided further that a preliminary program proposal shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session; provided further that a status report of the program shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.

**SECTION 245.** Provided that of the general fund appropriation to program planning, analysis, and budgeting (BUF 101), the sum of \$75,000 in fiscal year 1987-88 shall be used to implement the U.S. postal service's "zip + 4" program in the fiscal benefit office of the department of social services and housing, the pre-audit office of the department of accounting

and general services, the tax service and processing division of the department of taxation, and the administrative services office of the department of education.

**SECTION 246.** Provided that of the general fund appropriation for program planning, analysis, and budgeting (BUF 101), the sum of \$100,000 in fiscal year 1987-88 shall be used for a feasibility study of establishing the aloha state bond lottery in Hawaii; provided further that a report of the study containing recommendations shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session.

**SECTION 247.** Provided that in the event expenses specified in section 621-9, Hawaii Revised Statutes (witness fees), and section 802-5, Hawaii Revised Statutes (court appointed private counsel for indigents), exceed the general fund appropriations for the program, planning, analysis and budgeting program (BUF 101) in each fiscal year of the 1987-89 biennium for the purposes stated therein, the director of finance with the approval of the governor is authorized to utilize savings as determined to be available from any other state program for the purpose of meeting deficits incurred by the department of budget and finance.

**SECTION 248.** Provided that of the general fund appropriation for statewide plan and coordination (PED 103), the sum of \$50,000 in fiscal year 1987-88 shall be used for a study to identify and evaluate the State's role in the management and development of resources in the exclusive economic zone; provided further that the department of planning and economic development shall submit a final report of the study to the legislature twenty days before the convening of the 1988 regular session.

**SECTION 249.** Provided that of the general fund appropriation for statewide plan and coordination (PED 103), the sum of \$250,000 in fiscal year 1988-89 shall be used for the development and expansion of the ocean and coastal information management system to inventory and map ocean resources; provided further that the department of planning and economic development shall submit a report to the legislature on the program performance of the ocean coastal information management system; provided further that this report shall serve as the basis to recommend the fiscal year 1988-89 supplemental budget request for the development and expansion of the ocean coastal information management system; provided further that the report shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session.

**SECTION 250.** Provided that of the general fund appropriation for the office of the governor-other policy development and coordination (GOV 102), the sum of \$28,000 in fiscal year 1987-88 shall be used to continue the maintenance of the Hawaii pesticides information retrieval system; provided further that the funds shall be expended by the governor's agriculture coordinating committee.

**SECTION 251.** Provided that of the general fund appropriation for the office of the governor-other policy development and coordination (GOV 102), the sum of \$45,000 in fiscal year 1987-88 and \$50,000 in fiscal year 1988-89 shall be used for research on pineapple ant control of mealybug wilt; provided further that the sum of \$20,000 in fiscal year 1987-88 and \$20,000 in fiscal year 1988-89 shall be used for continued work on the nature of mealybug wilt and control; provided further that the sum of \$75,000 in fiscal year 1987-88 and \$75,000 in fiscal year 1988-89 shall be used for continued work on movement and degradation of nematicides in relation to water

## ACT 216

management on drip irrigated pineapple; provided further that the sum of \$60,000 in fiscal year 1987-88 and \$60,000 in fiscal 1988-89 shall be used for the development of management strategies to minimize the use of chemical nematicides for controlling plant-parasitic nematodes in pineapple; provided further that the sum of \$30,000 in fiscal year 1987-88 shall be used to complete work on quantifying the relationships between the growth and yield of pineapple plants and fruits and environmental factors; provided further that the sum of \$105,000 in fiscal year 1987-88 and \$105,000 in fiscal year 1988-89 shall be used for research to develop a framework for integrated pest management of insect and mite pests on tomatoes; provided further that the sum of \$85,000 in fiscal year 1987-88 and \$85,000 in fiscal year 1988-89 shall be used for continued research on spotted wilt; provided further that the sum of \$60,000 in fiscal year 1987-88 and \$60,000 in fiscal year 1988-89 shall be used for the continuation of the pesticide education program for farmers; provided further that the sum of \$30,000 in fiscal year 1987-88 and \$30,000 in fiscal year 1988-89 shall be used to support the state farm fair; provided further that the sum of \$95,340 in fiscal year 1987-88 and \$95,340 in fiscal year 1988-89 shall be used to conduct a program of pesticide testing and registration to clear pesticides for use on specialty crops grown in Hawaii; provided further that the sum of \$25,000 in fiscal year 1987-88 and \$25,000 in fiscal year 1988-89 shall be used for educational programs offered by the Hawaii agricultural leadership foundation; provided further that these funds shall be expended by the governor's agriculture coordinating committee.

SECTION 252. Provided that of the general fund appropriation for the office of the governor-other policy development and coordination (GOV 102), the sum of \$50,000 in fiscal year 1987-88 shall be used for research and control of anthurium blight or bleach; provided further that the funds shall be expended by the governor's agriculture coordinating committee.

SECTION 253. Provided that of the general fund appropriation for the office of the governor - other policy development and coordination (GOV 102), the sum of \$30,000 in fiscal year 1987-88 shall be used for the development of a long-term marketing plan for dendrobium orchids; provided further that these funds shall be expended by the governor's agriculture coordinating committee.

SECTION 254. Provided that of the general fund appropriation for supporting services revenue collection (TAX 107), the sum of \$35,000 in fiscal year 1987-88 and \$35,000 in fiscal year 1988-89 shall be for the requirements of litigated tax claims pursuant to section 40-35, Hawaii Revised Statutes.

SECTION 255. Provided that of the general fund appropriation for cash and debt management (BUF 110), the sum of \$150,000 in fiscal year 1987-88 and \$156,000 in fiscal year 1988-89 shall be used to meet the requirements of the uniform disposition of unclaimed property program pursuant to chapter 523A, Hawaii Revised Statutes; provided further that in the event such claims exceed the general fund appropriation for the respective fiscal year, the director of finance with the approval of the governor is authorized to utilize savings as determined to be available from any other state program for the purpose of meeting deficits incurred by the department of budget and finance.

SECTION 256. Provided that of the interagency transfer funds appropriated for legal services (ATG 100), the sum of \$110,274 for fiscal year



1987-88 and \$103,288 for fiscal year 1988-89 shall be used to implement of a pilot collection unit program; provided further that if the department of the attorney general cannot secure a written commitment from the department of agriculture and the department of health to use the collection unit for the collection of all overdue loans the sum of \$213,562 shall be returned their respective disbursing departments.

**SECTION 257.** Provided that of the general fund appropriation for legal services (ATG 100), the sum of \$1,087,390 in fiscal year 1987-88 and \$1,087,390 in fiscal year 1988-89 shall be used for the career criminal program; provided further that the funds for fiscal year 1987-88 shall be distributed to the counties in the following manner: city and county of Honolulu - \$563,927, Hawaii county - \$201,000, Kauai county - \$127,701, and Maui county - \$194,762; provided further that a career criminal program statistics and caseload report generated by each county shall be submitted to the legislature no later than twenty days before the convening of the 1988 regular session; provided further that this report shall cover the period of January 1, 1987 to December 31, 1987 and shall include (1) statistics and information currently required annually of all counties by the office of the attorney general, and (2) the type and number of staff assigned to career criminal prosecution; if part time staff are used, this shall be indicated; provided further that for the purpose of this report, career criminal cases only include those cases in which the individuals charged are considered career criminals under section 845-3, Hawaii Revised Statutes; provided further that with all case statistics in the report, the report shall indicate if these are cases pending or concluded through district, circuit, family, or appellate court.

**SECTION 258.** Provided that of the general fund appropriation for legal services (ATG 100), the sum of \$38,268 in fiscal year 1987-88 shall be expended to cover the cost of equipment for the asbestos litigation unit; provided further that the department of the attorney general should consider the purchase of personal computers in place of workstations and any other such equipment purchases that will result in cost savings without an adverse effect on the asbestos litigation unit's performance.

**SECTION 259.** Provided that of the general fund appropriation for legal services (ATG 100), the sum of \$502,211 in fiscal year 1987-88 and \$502,211 in fiscal year 1988-89 shall be used for the victim/witness assistance program; provided further that the funds for fiscal year 1987-88 shall be distributed to the counties in the following manner: city and county of Honolulu - \$262,211, Hawaii county - \$90,000, Kauai county - \$75,000, and Maui county - \$75,000; provided further that a data report generated by each county shall be submitted to the legislature no later than twenty days before the convening of the 1988 regular session; provided further that this report shall cover the period January 1, 1987 to December 31, 1987, and shall include information currently required annually of all counties by the office of the attorney general.

**SECTION 260.** Provided that of the general fund appropriation for legal services (ATG 100), the sum of \$193,105 in fiscal year 1987-88 shall be used for the witness security and protection program; provided further that the office of the attorney general shall submit an annual report with regard to the programs and expenditures of the witness security and protection program to the legislature twenty days prior to the convening of the 1988 regular session.

**SECTION 261.** Provided that of the general fund appropriation for legal services (ATG 100), \$1,800,000 in fiscal year 1987-88 and \$1,700,000 in fiscal year 1988-89 shall be used to pay for litigation expenses; provided further that the attorney general shall continue to submit an accountability report on all expenses incurred for litigation expenses and the hire of special deputies to the legislature ten days after each quarter of the fiscal year; provided further that the accountability report shall identify litigation and hire of special deputies expenses incurred by any general funded and any nongeneral funded state department, agency, or program; provided further that the report shall reflect the total amount expended for litigation expenses and for the hire of special deputies by program ID and organization code; provided further that the funds appropriated for litigation expenses and the hire of special deputies shall not be used for any other purpose; and provided further that the department of the attorney general shall not bill any state department, agency, or program that is general funded for litigation expenses or for the hire of special deputies.

**SECTION 262.** Provided that of the general fund appropriation for legal services (ATG 100), the sum of \$193,105 in fiscal year 1987-88 shall be provided for the witness security and protection program; provided further that \$93,105 shall be for temporary subsistence costs for witnesses; provided further that \$100,000 is appropriated to compensate the agencies for the cost of overtime directly related to witness security and protection; provided that it is expressly understood that this appropriation shall not set a precedent for future compensation of overtime costs; provided further that any unexpended funds provided for this program shall lapse into the general fund; provided further that the requesting agencies shall submit a record of overtime hours accumulated, with descriptive explanations, to the legislature twenty days prior to the convening of the 1988 legislative session.

**SECTION 263.** Provided that the department of attorney general and department of commerce and consumer affairs shall take immediate and vigorous actions to expedite the collection related to the court judgment against financial security insurance company.

**SECTION 264.** Provided that of the general fund appropriation for the electronic data processing services (BUF 131), the sum of \$398,950 in fiscal year 1987-88 and \$419,897 in fiscal year 1988-89 shall be for services provided to the legislative reference bureau by the electronic data processing division; provided further that the electronic data processing division shall provide all of the electronic data processing services required by the legislative reference bureau.

**SECTION 265.** Provided that the electronic data processing services (BUF 131) shall prepare a comprehensive study and State plan for the future of electronic data processing and data communication in the state government of Hawaii, to include, but not limited to: a history of the division's and state agencies' electronic data processing program related activities, accomplishments, and growth, a statement of the goals and objectives of the State electronic data processing and data communication plan, a plan of strategic directions, architecture, and programs for the continued automation of Hawaii state governmental operations based upon the State's needs and available resources, comparative cost and technical analysis of alternative means of implementing this plan, a realistic and functional timetable detailing the incrementalized objectives, activities, and related costs of implementing this plan, a statement of the plan's missions, roles, and responsibilities for the division and the state agencies, an assessment of the strengths,

weaknesses, and resource availability of electronic data processing programs within the division and the state agencies, a plan to recruit, retain, and develop the State's electronic data processing personnel, a program for intra- and interdepartmental electronic data processing and data communications training for all State electronic data processing users, and a system for assessing end-user needs and satisfaction regarding the State electronic data processing and data communications plan; provided further that the division shall establish a process to continuously review and update with the State agencies the State electronic data processing and data communication plan; provided further that the development of this State plan shall be a product of the governor's electronic data processing advisory committee; provided further that the division shall make arrangements to submit the State plan to a technical evaluation by a panel of individuals qualified and experienced in the development, management, and operations of a state government data center; provided further that the electronic data processing division shall submit the State plan to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 266. Provided that the department of budget and finance shall conduct a study to evaluate the cost effectiveness of a centralized maintenance contract or self-maintenance program for micro-computers, terminals and other end-user devices such as printers and modems; provided further that a report of the study containing recommendations shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 267. Provided that of the general fund appropriation for work force attraction, selection, classification and effectiveness (PER 102), the sum of \$85,824 in fiscal year 1987-88 and \$85,824 in fiscal year 1988-89 shall be used for leasing private office space for the workers' compensation division.

SECTION 268. Provided that of the general fund appropriation for work force attraction, selection, classification and effectiveness (PER 102), the sum of \$10,000 in fiscal year 1987-88 shall be expended for State civil service system affirmative action/equal employment opportunity training courses.

SECTION 269. Provided that of the general fund appropriation for work force attraction, selection, classification and effectiveness (PER 102), the sum of \$9,309,120 in fiscal year 1987-88 and \$9,899,247 in fiscal year 1988-89 shall be expended to cover workers' compensation costs.

SECTION 270. Provided that the department of land and natural resources shall review its ceded land inventory and the computerized system for maintenance of the land inventory to address recommendations set forth in the final report of the auditor in December, 1986; provided further that the department of land and natural resources shall submit a report to the legislature twenty days prior to the convening of the 1988 regular session on the accuracy of its land inventory titles and on recommendations as to program and budget requirements for the development and maintenance of an on-line computer system for its public land inventory data base.

SECTION 271. Provided that of the general fund appropriation for risk management (AGS 203), the sum of \$4,250,000 in fiscal year 1987-88 and \$4,500,000 in fiscal year 1988-89 shall be expended for statewide liability and property insurance.

## ACT 216

SECTION 272. Provided that of the general fund appropriation for building repairs and alterations (AGS 233), the sum of \$2,100,000 in fiscal year 1987-88 shall be used to provide for the exterior building maintenance of the State capitol.

SECTION 273. Provided that of the general fund appropriation for the capitol building security (ATG 801), the sum of \$750 for fiscal year 1987-88 shall be used to study the possible implementation of an electronic security system.

SECTION 274. Provided that the office of the attorney general shall submit a report addressing the problem of overtime for capitol building security (ATG 801); provided further that the report shall include the extent of the problem over the past two fiscal years, the causes of the problem, a breakdown of costs for overtime according to assignment, and the alternative means and recommendations to correct or reduce the problem; provided further that this report shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session.

SECTION 275. Provided that of the general fund appropriation for grants-in-aid to counties (SUB 101), the sum of \$575,000<sup>1</sup> 0 in fiscal year 1987-88 shall be expended for the Maui youth theater.

SECTION 276. Provided that of the general fund appropriation for grants-in-aid to counties (SUB 101), the sum of \$1,500,000 in fiscal year 1987-88 shall be expended by the county of Maui to develop their water supply system.

SECTION 277. Provided that of the general fund appropriation for grants-in-aid to counties (SUB 101), the sum of \$50,000<sup>1</sup> 0 in fiscal year 1987-88 and \$50,000<sup>1</sup> 0 in fiscal year 1988-89 shall be expended by the Oahu neighborhood housing services inc. for operations.

SECTION 278. Provided that of the general fund appropriation for grants-in-aid to counties (SUB 101), the sum of \$20,000<sup>1</sup> 0 in fiscal year 1987-88 shall be expended to develop and maintain a juvenile data collection/retrieval system for the county of Maui.

SECTION 279. Provided that of the general fund appropriation for grants-in-aid to counties (SUB 101), the sum of \$12,000,000 in each fiscal year of the 1987-89 biennium shall be for the purpose of improvements to infrastructure and/or tourism-related activities; provided further that the funds shall be apportioned in each fiscal year of the biennium as follows:

city and county of Honolulu	\$5,172,000
county of Maui	2,856,000
county of Hawaii	2,100,000
county of Kauai	1,872,000

provided further that these apportionments shall be allotted on a quarterly basis beginning July 1, 1987, and that these apportionments shall not be used to supplant county funding designated for such infrastructure or tourism-related activities; provided further that each county shall submit a status report to the legislature twenty days prior to the convening of the 1988 and 1989 regular sessions on the utilization of the apportionments under this section.

**PART IV. CAPITAL IMPROVEMENT PROJECTS**

**SECTION 280. CAPITAL IMPROVEMENT PROJECTS AUTHORIZED.** The sums of money appropriated or authorized in Part II of this Act for capital investment shall be expended for the projects listed below. Accounting of the appropriations by the department of accounting and general services shall be based on the projects listed in this section. Several related or similar projects may be combined into a single project, if such combination is advantageous or convenient for implementation; provided that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.)

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F

**A. ECONOMIC DEVELOPMENT**

**PED102 - COMMERCE AND INDUSTRY**

**1. BDB-1 IRRADIATION FACILITY, HILO, HAWAII**

PLANNING, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A COBALT 60 IRRADIATION FACILITY TO ASSIST ACTIVITIES INCLUDING AGRICULTURE, AQUACULTURE, MANUFACTURING AND PROCESSING.

PLANS			200	
CONSTRUCTION				800
TOTAL FUNDING	PED		200C	800C

**2. FIB-1 FILMING FACILITY, OAHU**

LAND ACQUISITION OF APPROXIMATELY 60 ACRES AND PLANS, DESIGN AND CONSTRUCTION OF A FILMING FACILITY INCLUDING ON-SITE INFRASTRUCTURE, ROADWAY, PARKING AND BUILDING MODIFIED FOR A FILM STUDIO.

DESIGN			175	
CONSTRUCTION			7,020	
TOTAL FUNDING	PED		7,195C	C

**3. HTDC-1 HAWAII OCEAN SCIENCE AND TECHNOLOGY PARK, KEAHOLE, KONA, HAWAII**

HIGH TECHNOLOGY PARK SITE FOR USE BY AQUACULTURE AND RELATED OCEAN SCIENCE INDUSTRIES. APPROXIMATELY 547 ACRES OF STATE LANDS LOCATED NEXT TO KEAHOLE AIRPORT AND THE NELH. LOT SIZES WILL RANGE FROM 3 TO 20 ACRES. UTILITIES, GRADING, WIDENING OF EXISTING ACCESS, AND CONSTRUCTION OF INTERNAL ROADS. PARK

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		WILL ASSIST DEVELOPING INDUSTRIES, GENERATE JOBS AND STATE TAX REVENUES.					
		PLANS			1		
		LAND			1		
		DESIGN			57		
		CONSTRUCTION			3,414		
		EQUIPMENT			1		
		TOTAL FUNDING	PED		3,474C		
4.		HTDC-2 MANOA INNOVATION CENTER					
		FUTURE HOME OF PICHTR AND HTDC'S INCUBATOR FACILITY. ALSO, LOCATION OF THE RCUH AT THE SITE IS BEING CONSIDERED. CONSTRUCTION WILL INCLUDE ADJOINING TWO STORY STRUCTURES OF CONCRETE FRAME WITH CONCRETE BLOCKS OFFERING ADMINISTRATIVE AND LABORATORY SPACE.					
		PLANS			1		
		LAND			1		
		DESIGN			400		
		TOTAL FUNDING	PED		402C		
5.		MAUI RESEARCH AND TECHNOLOGY CENTER					
		PLANS AND DESIGN FOR MAUI RESEARCH AND TECHNOLOGY PARK.					
		PLANS			50		
		DESIGN			428		
		TOTAL FUNDING	PED		478A		
6.		HAWAII RESEARCH AND TECHNOLOGY PARK - U.H., HILO					
		DEVELOPMENT OF HAWAII RESEARCH AND TECHNOLOGY PARK.					
		PLANS			37		
		DESIGN			38		
		TOTAL FUNDING	UOH		75C		
7.		MAUI ECONOMIC OPPORTUNITY FACILITY					
		PLANS FOR DEVELOPMENT. (FUNDS MAY BE DELEGATED TO THE COUNTY OF MAUI).					
		PLANS			50		
		TOTAL FUNDING	LNH		50C		
<b>AGRI21 - PLANT QUARANTINE</b>							
8.	A-023	BURROWING NEMATODE NURSERY PROGRAM MIST EXTRACTION SYSTEM					
		RENOVATION OF A 25' X 30' ROOM AT PLANT QUARANTINE AT 701 ILALO ST. FOR ACCOMMODATING A MIST EXTRACTION SYSTEM FOR NEMATODE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR	M O	FISCAL YEAR	M O
				1987-88	F	1988-89	F

CERTIFICATION OF NURSERY PLANT EXPORTS TO CALIFORNIA. REQUIREMENTS TARGETED AT WATERPROOFING WALLS, CEILING, AND ELECTRICAL FIXTURES, INSTALLING PLUMBING FIXTURES, TIMERS, SOLENOID VALVES, CIRCULATION OF HOT WATER AND CONSTRUCTION OF WATERPROOF BENCHES FOR MIST BOX UNITS.

DESIGN			17		
CONSTRUCTION			108		
TOTAL FUNDING	AGS		125C		C

AGR131 - ANIMAL QUARANTINE

9. A-022 ANIMAL QUARANTINE STATION IMPROVEMENTS

REROOF ANIMAL QUARANTINE OFFICE, MAINTENANCE, GARAGE AND STORAGE AREA, REPLACE POWER/LIGHT POLES, REPLACE PCB TRANSFORMERS, AND REPAIR VISITOR PARKING.

DESIGN			20		
CONSTRUCTION			160		
TOTAL FUNDING	AGS		180C		C

AGR132 - ANIMAL DISEASE CONTROL

10. A-021 ANIMAL INDUSTRY LAB/OFFICE REROOF

DESIGN			11		
CONSTRUCTION			121		
TOTAL FUNDING	AGS		132C		C

11. A-025 LIVESTOCK DISEASE CONTROL BUILDING CATTLE PENS/STORAGE AREAS REROOF

DESIGN			10		
CONSTRUCTION			119		
TOTAL FUNDING	AGS		129C		C

AGR151 - DISTRIBUTION SYSTEMS IMPROVEMENT FOR AGR

12. A-024 RENOVATE COMMODITIES LABORATORY, OAHU

RENOVATE LABORATORY TO PROVIDE: STAINLESS STEEL COUNTERS AND SINKS; STORAGE CABINETS FOR GLASSWARE, REAGENTS AND EQUIPMENT; MICROSCOPE AND WEIGHING WORK AREAS; FEED SAMPLE PREPARATION AND STORAGE; OFFICE AREA & RECORD STORAGE; WATER, GAS & ELECTRICAL OUTLETS; APPROPRIATE LIGHTING; GARMENT STORAGE; & WASTE MATERIAL DISPOSAL TO IMPROVE THE EFFICIENCY, ACCURACY,

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		<b>&amp; SAFETY OF THE PROCESSED FOODS AND FEED PROGRAMS.</b>					
		DESIGN			8		
		CONSTRUCTION			98		
		TOTAL FUNDING	AGS		106C		C
13.		<b>KAMUELA VACUUM COOLING PLANT, HAWAII</b>					
		<b>DESIGN AND CONSTRUCTION OF NEW REEFER ROOM.</b>					
		DESIGN			25		
		CONSTRUCTION			225		
		TOTAL FUNDING	AGS		250A		A
14.		<b>KULA VACUUM COOLING PLANT, MAUI.</b>					
		<b>PLANNING, DESIGN, AND CONSTRUCTION OF BUILDING TO HOUSE HYDRO-COOLER AND ICE MACHINE.</b>					
		CONSTRUCTION			425		
		TOTAL FUNDING	AGS		425A		A
<b>AGR192 - GENERAL ADMINISTRATION FOR AGR</b>							
15.		<b>A-M9 DOA FACILITY, MAUI</b>					
		<b>FACILITY TO HOUSE DOA PROGRAMS ON MAUI.</b>					
		CONSTRUCTION			1,347		
		EQUIPMENT			104		
		TOTAL FUNDING	AGS		1,451C		C
16.		<b>A-020 CONSTRUCTION AND RENOVATIONS TO DOA FACILITIES</b>					
		<b>VARIOUS CONSTRUCTION AND RENOVATION PROJECTS AT DOA FACILITIES.</b>					
		DESIGN			10		
		CONSTRUCTION			90		
		TOTAL FUNDING	AGS		100C		C
<b>LNR153 - COMMERCIAL FISHERY AND AQUACULTURE</b>							
17.		<b>BAIT FISH HOLDING AND TRANSFER FACILITY, HILO, HAWAII</b>					
		<b>PLANS, DESIGN, CONSTRUCTION AND APPURTENANCES OF A DEMONSTRATION BAITFISH HOLDING AND TRANSFER FACILITY.</b>					
		CONSTRUCTION			125		
		TOTAL FUNDING	LNR		125C		C
<b>PED120 - ENERGY DEVELOPMENT AND MANAGEMENT</b>							
18.		<b>AES775 ALTERNATE ENERGY DEMONSTRATION AND COMMERCIALIZATION PROJECTS</b>					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		PROGRAM TO PLAN, DESIGN AND CONSTRUCT ALTERNATE ENERGY FACILITIES TO DEMONSTRATE THE POTENTIAL OF VARIOUS ALTERNATE ENERGY RESOURCES IN HAWAII AND TO IMPLEMENT THE COMMERCIALIZATION OF ECONOMICALLY FEASIBLE ALTERNATE ENERGY PROJECTS. FUNDS MAY BE USED FOR ENERGY-RELATED PROJECTS AND MAY BE USED TO MATCH NON-STATE FUNDS.					
		PLANS		140			
		LAND		1			
		DESIGN		100			
		CONSTRUCTION		140			
		EQUIPMENT		19			
		TOTAL FUNDING	PED	400C			C
19.		NELH08 NELH - KONA SEACOAST TEST FACILITY, HAWAII					
		INFRASTRUCTURE UPGRADES AND SITE IMPROVEMENTS - UTILITY SYSTEM IMPROVEMENTS, SEAWATER DISTRIBUTION AND TREATMENT SYSTEMS AND BEACH PARK INFRASTRUCTURE.					
		PLANS		26		8	
		DESIGN		86		46	
		CONSTRUCTION		340		1,521	
		EQUIPMENT		158		65	
		TOTAL FUNDING	PED	610C		1,640C	
20.		PUNA GEOTHERMAL FACILITY - HGP -A POWER PLANT OVERHAUL					
		REPLACE ROCK MUFFLER AND H2S ABATEMENT SYSTEM; OVERHAUL STEAMTURBINE AND COOLING TOWER.					
		DESIGN		35		10	
		CONSTRUCTION		315		90	
		TOTAL FUNDING	PED	350A		100A	
21.		PUNA GEOTHERMAL FACILITY-EXPANSION OF PUNA RESEARCH CENTER					
		FUNDS FOR EIS, REZONING PERMITS AND PLANS.					
		PLANS		125		25	
		TOTAL FUNDING	PED	125A		25A	
		LNR141 - WATER DEVELOPMENT & IRRIGATION SERVICES					
22.		G06 DRILLING KAU EXPLORATORY WELLS, HAWAII					
		PLANS, DESIGN AND DRILLING OF TEST HOLES AND EXPLORATORY					

ACT 216

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR	M O	FISCAL YEAR	M O
				1987-88	F	1988-89	F
		WELLS INCLUDING CASING AND CONDUCTING PUMP TESTS.					
		PLANS		10		20	
		LAND		20		30	
		DESIGN		30		40	
		CONSTRUCTION		490		900	
		TOTAL FUNDING	LNR	550C		990C	
23.	G14	DRILLING KEEI NO. 4 WELL, SOUTH KONA, HAWAII					
		PLANS, DESIGN AND DRILLING OF A WELL, INSTALLING A CASING AND PUMP TESTING THE WELL TOGETHER WITH APPURTENENT AND INCIDENTAL WORK.					
		PLANS		10			
		LAND		20			
		DESIGN		35			
		CONSTRUCTION		715			
		TOTAL FUNDING	LNR	780C			C
24.	G18	DRILLING POIPU EXPLORATORY WELL "E", KAUAI					
		PLANS, DESIGN, AND DRILLING OF AN EXPLORATORY WELL INCLUDING CASING INSTALLATION, PUMP TESTING AND OTHER INCIDENTAL AND APPURTENANT WORK.					
		PLANS		10			
		LAND		20			
		DESIGN		30			
		CONSTRUCTION		540			
		TOTAL FUNDING	LNR	600C			C
25.	G21	DRILLING NORTH KONA EXPLORATORY WELL, HAWAII					
		PLANS, DESIGN AND DRILLING OF AN EXPLORATORY WELL, INSTALLING CASING AND PUMP TESTING TOGETHER WITH APPURTENANT AND INCIDENTAL WORK.					
		PLANS		20			
		LAND		30			
		DESIGN		35			
		CONSTRUCTION		865			
		TOTAL FUNDING	LNR	950C			C
26.	G86	WAIMEA IRRIGATION SYSTEM IMPROVEMENTS UPPER HAMAKUA DITCH, HAWAII					
		PLANS, DESIGN AND CONSTRUCTION FOR INCREMENTAL DEVELOPMENT, RENOVATION, AND REHABILITATION OF UPPER HAMAKUA DITCH FOR THE WAIMEA IRRIGATION SYSTEM.					
		PLANS		20		20	
		LAND		20		15	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN		220		100	
		CONSTRUCTION		1,400		1,615	
		TOTAL FUNDING	LNR		A	1,750A	
			LNR	1,660C			C
27.	G94	WATER RESOURCES, DISTRICTS OF HAMAKUA AND WAIMEA, HAWAII					
		WATER RESOURCES, DISTRICTS OF HAMAKUA AND WAIMEA, HAWAII. PLANS, DESIGN AND DRILLING OF A WELL AND PUMP TESTING INCLUDING INCIDENTAL AND APPURTENANT WORK.					
		PLANS		22			
		LAND		30			
		DESIGN		30			
		CONSTRUCTION		788			
		TOTAL FUNDING	LNR	870C			C
28.	J07	DEVELOPMENT OF TWO WAIKOLU VALLEY WELLS, MOLOKAI IRRIGATION SYSTEM, MOLOKAI					
		PLANS, DESIGN & CONSTRUCTION OF PUMP, CONTROLS, AND CONNECTING PIPELINE FOR WAIKOLU WELLS FOR MOLOKAI IRRIGATION SYSTEM.					
		PLANS		30			
		LAND		20			
		DESIGN		100			
		CONSTRUCTION		1,420			
		TOTAL FUNDING	LNR	1,570C			C
29.	J08	TELEMETRY AND SUPERVISORY CONTROL SYSTEM FOR MOLOKAI IRRIGATION SYSTEM, MOLOKAI					
		PLAN, DESIGN AND INSTALLATION OF IMPROVEMENTS TO EXISTING TELEMETERING SYSTEM AND TO CONSTRUCT A SUPERVISORY CONTROL SYSTEM FOR THE MOLOKAI IRRIGATION SYSTEM.					
		PLANS		15		10	
		DESIGN		35		15	
		CONSTRUCTION		395		210	
		EQUIPMENT		15		15	
		TOTAL FUNDING	LNR	460C		250C	
30.	J09	WAIANA E WELL NO. 2 WAIANA E OAHU					
		PLANS, DESIGN AND CONSTRUCTION OF THE DRILLING AND DEVELOPMENT OF A SECOND WELL IN WAIANA E VALLEY OAHU.					
		PLANS		10		10	
		LAND		20			
		DESIGN		40		40	

ACT 216

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		CONSTRUCTION		520		500	
		TOTAL FUNDING	LNR		A	550A	
			LNR	590C		C	
31.	J13	WAIMANALO IRRIGATION SYSTEM IMPROVEMENTS, KOOLAUPOKO, OAHU					
		PLANS, DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO THE WAIMANALO IRRIGATION SYSTEM CONSISTING OF A 60 MG RESERVOIR AND A CLOSED PRESSURIZED DISTRIBUTION PIPELINE AS OUTLINED IN THE WAIMANALO WATERSHED PLAN AND AS AUTHORIZED UNDER PL-566 FOR MATCHING FEDERAL FUNDS.					
		PLANS		50		50	
		LAND		50		50	
		DESIGN		100		100	
		CONSTRUCTION		4,025		2,680	
		TOTAL FUNDING	LNR		A	2,880A	
			LNR	4,225C		C	
32.	J19	KAWAIHAE EXPLORATORY WELL DRILLING AND DEVELOPMENT, HAWAII					
		PLANS, DESIGN AND CONSTRUCTION FOR DRILLING AN EXPLORATORY WELL APPROXIMATELY 1100 FEET DEEP WITH CASING AND DEVELOPMENT OF WELL CONSISTING OF PUMP, CONTROLS AND PIPELINE TOGETHER WITH APPURTENANT AND INCIDENTAL WORK.					
		PLANS		25		10	
		LAND		20		30	
		DESIGN		30		40	
		CONSTRUCTION		855		670	
		TOTAL FUNDING	LNR	930C		750C	
33.	J22	DRILLING MAKAKILO EXPLORATORY WELL, OAHU					
		PLANS, DESIGN AND DRILLING OF AN EXPLORATORY WELL INCLUDING INCIDENTAL AND APPURTENANT WORK.					
		PLANS		10			
		LAND		35			
		DESIGN		20			
		CONSTRUCTION		335			
		TOTAL FUNDING	LNR	400C			C
34.	J25	DRILLING WAIHEE EXPLORATORY WELL, MAUI					
		PLANS, DESIGN AND DRILLING OF AN EXPLORATORY WELL AND PUMP TESTING INCLUDING INCIDENTAL AND APPURTENANT WORK.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		PLANS		10			
		LAND		20			
		DESIGN		35			
		CONSTRUCTION		620			
		TOTAL FUNDING	LNR	685C			C
35. KULA WATER SYSTEM							
		PLANS TO BE DEVELOPED ACCORDING TO UP COUNTRY WATER STUDY COMMITTEE PROPOSALS.					
		PLANS		100			
		DESIGN		400			
		TOTAL FUNDING	LNR	500C			C
C. TRANSPORTATION FACILITIES							
TRN102 - HIA FACILITIES & SVCS							
1. A10 HIA ROADWAYS AND PARKING							
		DESIGN & CONSTRUCT ROADS & PARKING AREAS INCLUDING GROUND AND ELEVATED STRUCTURES AND EXIT PLAZA FOR OVERSEAS AND INTERISLAND TERMINALS AND SUPPORT AREAS. ALTERATIONS TO EXISTING ROADS AND PARKING FACILITIES AND OTHER MISC IMPROVEMENTS. NEW PARKING STRUCTURE. RELOCATE EXISTING TENANTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		DESIGN		1,000			
		CONSTRUCTION		5,400		7,000	
		TOTAL FUNDING	TRN	5,900E		7,000E	
			TRN	500N			N
2. A11 HIA INTERISLAND COMPLEX							
		DESIGN & CONSTRUCT INTERISLAND COMPLEX INCLUDING BUILDINGS, APRONS AND TAXIWAYS, ROADWAYS, PARKING AND OTHER MISC IMPROVEMENTS. LAND ACQUISITION. RELOCATE EXISTING INTERISLAND MAINTENANCE, CARGO AND ADMIN OFFICES. ALTERATIONS TO EXISTING BLDGS, APRONS, ROADWAYS AND PARKING. INSTALL FURNITURE, LANDSCAPING, AND MISC EQUIPMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		DESIGN		4,000		1,000	
		CONSTRUCTION		26,000		22,000	
		TOTAL FUNDING	TRN	5,000B		5,000B	
			TRN	23,500		16,900E	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
			TRN	1,500N		1,100N	
3.		A23 HIA AIRFIELD IMPROVEMENTS					
		DESIGN & CONSTRUCT IMPROVEMENTS TO AIRFIELD FACILITIES INCLUDING TAXIWAYS, RUNWAYS, SIGNS, ENGINE RUN UP PAD, SERVICE ROADS, SAFETY AREAS, LIGHTING SYSTEMS, EMERGENCY GENERATOR, AND OTHER MISC IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		DESIGN		200		200	
		CONSTRUCTION				2,000	
		TOTAL FUNDING	TRN	200E		2,000E	
			TRN		N	200N	
4.		A37 AIRPORT SYSTEMS IMPROVEMENTS					
		DESIGN & CONSTRUCT SYSTEM IMPROVEMENTS INCLUDING ENERGY MANAGEMENT, SIGNS, FLIGHT INFORMATION, FIRE ALARM, SECURITY, OPERATIONAL CONTROLS, LOADING BRIDGES, UTILITIES, RAMP AIR, AND FUELING. IMPROVE ENERGY EFFICIENCY AND OPERATIONAL EFFICIENCY AND OTHER MISC IMPROVEMENTS.					
		DESIGN		3,700			
		CONSTRUCTION		9,000		10,000	
		TOTAL FUNDING	TRN	5,000B		5,000B	
			TRN	7,700E		5,000E	
5.		A41 HIA TERMINAL MODIFICATIONS					
		DESIGN AND CONSTRUCT IMPROVEMENTS TO FACILITIES INCLUDING BUILDING, ROADS, PARKING, UTILITIES, AIRCRAFT PARKING APRONS, SIGNS, & LANDSCAPING. RELOCATE EXISTING TENANTS. PROJECTS FOR OPERATIONAL AND ENERGY EFFICIENCY, PASSENGER CONVENIENCE AND OTHER MISC IMPROVEMENTS.					
		DESIGN		6,300		2,500	
		CONSTRUCTION		31,000		16,000	
		TOTAL FUNDING	TRN	5,000B		5,000B	
			TRN	32,300E		13,500E	
6.		A43 SERVICE SUPPORT FACILITIES AT HIA					
		DESIGN AND CONSTRUCT SERVICE SUPPORT FACILITIES INCLUDING BUILDING, ROADS, PARKING, UTILITIES, LANDSCAPING, TELEPHONE, NON POTABLE WATER, LEASE LOTS, SERVICE COURT DEVELOPMENT,					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F

APRONS, TAXIWAYS, CARGO TERMINAL AND OTHER MISC IMPROVEMENTS.

DESIGN				610			150
CONSTRUCTION				5,800			5,500
TOTAL FUNDING			TRN	6,210E			5,450E
			TRN	200N			200N

TRN114 - KE-AHOLE AIRPORT FACILITIES AND SERVICES

7. C03 KEAHOLE AIRPORT IMPROVEMENTS

DESIGN & CONSTRUCT IMPROVEMENTS TO FACILITIES INCLUDING BUILDINGS, ROADS, PARKING, APRONS, RUNWAYS, TAXIWAYS, AND UTILITIES. ALTERATIONS TO EXISTING FACILITIES AND RELOCATION OF TENANTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN				1,200			
CONSTRUCTION				6,000			5,000
TOTAL FUNDING			TRN	6,700E			5,000E
			TRN	500N			N

8. C10 KEAHOLE AIRFIELD IMPROVEMENTS

DESIGN & CONSTRUCT IMPROVEMENTS TO AIRFIELD INCLUDING RUNWAY TAXIWAYS, SERVICE ROADS. WORK INCLUDES SITEWORK, PAVING, PAINTING, ELECTRICAL, STRENGTHEN EXISTING PAVEMENT, ALTERATION OR RELOCATION OF EXISTING FACILITIES, AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN				900			
TOTAL FUNDING			TRN	900E			E

9. CIVIL AIR PATROL, HANGAR.

DESIGN AND CONSTRUCTION FOR HANGAR TRAINING FACILITIES.

DESIGN				25			
CONSTRUCTION				225			
TOTAL FUNDING			AGS	250C			C

TRN131 - KAHULUI AIRPORT FACILITIES AND SERVICES

10. D04 KAHULUI AIRPORT EXPANSION

DESIGN AND CONSTRUCT ADDITIONS & ALTERATIONS TO BLDGS, ROADS &

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		PARKING, APRONS, NEW TERMINAL, TAXIWAYS, RUNWAYS, LANDSCAPING, FURNITURE, SITEWORK, CARGO TERMINAL, OFFSITE DRAINAGE, RELOCATE CONTROL TOWER, RELOCATE TENANTS AND OTHER MISC IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		DESIGN			3,000		1,000
		CONSTRUCTION			7,000		22,800
		TOTAL FUNDING	TRN		3,000B		5,000B
			TRN		6,000E		17,800E
			TRN		1,000N		1,000N
11. D08 SERVICE SUPPORT FACILITIES AT KAHULUI AIRPORT							
		DESIGN & CONSTRUCT BUILDINGS, ROADS, PARKING, APRONS, TAXIWAYS, LEASE LOTS, CARGO TERMINAL, HELIPADS AND OTHER MISC IMPROVEMENTS. RELOCATION OF EXISTING TENANTS.					
		DESIGN			250		
		CONSTRUCTION			1,000		1,500
		TOTAL FUNDING	TRN		1,250E		1,500E
12. D10 KAHULUI AIRFIELD IMPROVEMENTS							
		DESIGN AND CONSTRUCT EXTENSION TO EXISTING RUNWAY & TAXIWAYS INCLUDING SITEWORK, PAVING, PAINTING, ELECTRICAL, STRENGTHEN EXISTING PAVEMENT, ALTERATION OR RELOCATION OF EXISTING FACILITIES AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		DESIGN			800		
		TOTAL FUNDING	TRN		800E		E
TRN141 - MOLOKAI AIRPORT FACILITIES AND SERVICES							
13. D55 MOLOKAI AIRPORT IMPROVEMENTS							
		DESIGN & CONSTRUCT BUILDINGS, ROADS, PARKING, AIRPORT RUNWAY REALIGNMENT, APRONS, UTILITIES, LANDSCAPING, MODIFICATIONS TO EXISTING FACILITIES RELOCATION OF EXISTING TENANTS AND OTHER MISCELLANEOUS IMPROVEMENTS.					
		DESIGN			200		
		CONSTRUCTION			1,200		800
		TOTAL FUNDING	TRN		1,400E		800E



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F

TRN161 - LIHUE AIRPORT FACILITIES AND SERVICES

14. E03 LIHUE AIRPORT COMPLEX

CONSTRUCT AIRPORT FACILITIES INCLUDING BUILDINGS, ROADS, PARKING, UTILITIES, AIRCRAFT APRONS, TAXIWAYS, RUNWAYS, CARGO TERMINAL, LEASE LOTS AND HANGARS, ALTERATION TO EXISTING FACILITIES INCLUDING BLDGS, AIRFIELD, ROADS, PARKING AND OTHER MISC IMPROVEMENTS. RELOCATION OF TENANTS AND MODIFICATIONS TO EXISTING FACILITIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN			600		
CONSTRUCTION			2,200		3,000
TOTAL FUNDING		TRN	2,600E		3,000E
		TRN	200N		N

15. E10 LIHUE AIRFIELD IMPROVEMENTS

DESIGN AND CONSTRUCT EXTENSION TO EXISTING RUNWAY & TAXIWAYS INCLUDING SITEWORK, PAVING, PAINTING, ELECTRICAL, STRENGTHEN EXISTING PAVEMENT, ALTERATION OR RELOCATION OF EXISTING FACILITIES AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN			700		
TOTAL FUNDING		TRN		E	700E

TRN163 - PORT ALLEN AIRPORT FACILITIES AND SERVICES

16. E51 PORT ALLEN IMPROVEMENTS

DEVELOPMENT OF IMPROVEMENTS TO PORT ALLEN AIRPORT INCLUDING CONSTRUCTION OF LEASE LOTS AND MODIFICATIONS TO ROADS, PARKING, UTILITIES, FENCING AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN			90		
CONSTRUCTION			900		890E
TOTAL FUNDING		TRN		E	100N
		TRN		N	

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

			APPROPRIATIONS (IN 000'S)				
ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	FISCAL	M	FISCAL	M
				YEAR 1987-88	O	YEAR 1988-89	O

**TRN195 - AIR TRANSPORTATION FACILITIES & SVCS SUPPORT**

17. F04 AIRPORT PLANNING STATEWIDE

PROVIDE BASIC DATA AND INFORMATION FOR PROPER PLANNING, PRELIMINARY DESIGNS, SPECIAL ENGINEERING, ARCHITECTURAL, ENVIRONMENTAL AND SPECIAL STUDIES FOR THE STATEWIDE SYSTEM OF AIRPORTS AND CONTINUE REVIEW AND UPDATING OF MASTER PLANS. FUNDS BUDGETED HEREIN SHALL NOT BE EXPENDED ON ACTIVITIES RELATED TO LIHUE AIRPORT RUNWAY EXPANSION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

PLANS			1,100		500
TOTAL FUNDING	TRN		1,000B		500B
	TRN		100N		N

18. F06 LAND ACQUISITION STATEWIDE

ACQUISITION OF LAND, AIRPORT FACILITIES AND LEASE RIGHTS FOR STATEWIDE AIRPORTS.

LAND			5,000		
TOTAL FUNDING	TRN		5,000E		E

19. F08 AIRPORT IMPROVEMENTS STATEWIDE

MISCELLANEOUS IMPROVEMENTS TO VARIOUS AIRPORTS. IMPROVEMENTS FOR SAFETY AND CERTIFICATION REQUIREMENTS. IMPROVEMENTS TO FACILITIES AND IMPROVEMENTS FOR OPERATIONAL EFFICIENCY. PROVIDED THAT ANY IMPROVEMENTS TO PORT ALLEN AIRPORT SHALL NOT BE USED FOR IMPROVEMENTS TO LEASELOTS FOR HELICOPTERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN			1,750		200
CONSTRUCTION			3,500		4,700
TOTAL FUNDING	TRN		4,250E		4,400E
	TRN		1,000N		500N

**TRN301 - HONOLULU HARBOR FACILITIES AND SERVICES**

20. J02 IMPROVEMENTS TO FACILITIES AT PIERS 19 TO 34 AT HONOLULU HARBOR

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		CONSTRUCT TOILET FACILITIES IN PIER 27/28 SHED AND OTHER IMPROVEMENTS.					
		DESIGN		10			
		CONSTRUCTION		70			
		TOTAL FUNDING	TRN	80B			B
21.	J03	MISCELLANEOUS IMPROVEMENTS TO FACILITIES HONOLULU HARBOR					
		MISCELLANEOUS IMPROVEMENTS TO PIERS, SHEDS, AND YARD FACILITIES AT HONOLULU HARBOR, INCLUDING IMPROVEMENTS TO LIGHTING, PAVING, AND OTHER FACILITIES.					
		DESIGN		30		35	
		CONSTRUCTION		115		120	
		TOTAL FUNDING	TRN	145B		155B	
22.	J06	CONTAINER FACILITIES AT SAND ISLAND					
		DEVELOPMENT OF SAND ISLAND CONTAINER YARD AREAS, PIERS, AND OTHER IMPROVEMENTS.					
		DESIGN		100		300	
		CONSTRUCTION		135		700	
		TOTAL FUNDING	TRN	135B		300B	
			TRN	100E		700E	
23.	J20	IMPROVEMENTS TO PIERS 39-40 COMPLEX, HONOLULU HARBOR					
		ACQUISITION, PIER, YARD, AND SHED IMPROVEMENTS AT PIERS 39-40					
		LAND		2,613			
		DESIGN		80		320	
		CONSTRUCTION		500		100	
		TOTAL FUNDING	TRN	3,193E		420E	
24.	J25	COMMERCIAL FISHERIES FACILITY DEVELOPMENT					
		RECONSTRUCT AND IMPROVE WOODEN PIER 18 OTHER IMPROVEMENTS.					
		DESIGN		70			
		CONSTRUCTION		430			
		TOTAL FUNDING	TRN	500C			C
25.	J31	PIER 36 IMPROVEMENTS, HONOLULU HARBOR					
		CONSTRUCTION OF STORAGE YARD INCLUDING DEMOLITION, PAVING, LIGHTING AND OTHER IMPROVEMENTS.					
		DESIGN		50			
		CONSTRUCTION		380			
		TOTAL FUNDING	TRN	430E			E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
<b>TRN303 - BARBERS POINT HARBOR FACILITIES AND SERVICES</b>							
26.	J11	BARBERS PT. DEEP DRAFT HARBOR OAHU					
		INCREMENTAL DEVELOPMENT OF BARBER'S POINT HARBOR INCLUDING PIER, YARD AND SHED FACILITIES, UTILITIES, AND OTHER IMPROVEMENTS.					
		DESIGN			300		
		TOTAL FUNDING	TRN		B		300B
<b>TRN305 - KEWALO BASIN FACILITIES AND SERVICES</b>							
27.	J12	KEWALO BASIN IMPROVEMENTS, OAHU					
		IMPROVEMENTS AT KEWALO BASIN INCLUDING STRUCTURES, UTILITIES, PAVING, LIGHTING, AND OTHER SHORESIDE IMPROVEMENTS.					
		DESIGN			160		
		CONSTRUCTION			1,330		
		TOTAL FUNDING	TRN		1,490C		C
<b>TRN311 - HILO HARBOR FACILITIES AND SERVICES</b>							
28.	L06	CONTAINER FACILITIES AT HILO HARBOR, HAWAII					
		COMPLETE PAVING OF STORAGE YARD AND ACCOMPLISH OTHER IMPROVEMENTS.					
		DESIGN			35		
		CONSTRUCTION			275		
		TOTAL FUNDING	TRN		310B		B
<b>TRN313 - KAWAIHAE HARBOR FACILITIES AND SERVICES</b>							
29.	L03	KAWAIHAE HARBOR IMPROVEMENTS, HAWAII					
		KAWAIHAE HARBOR IMPROVEMENTS INCLUDING PIER EXTENSION, DEMOLITION OF ABANDONED STRUCTURES AND DEVELOPMENT OF YARD AREAS, DREDGING AND OTHER IMPROVEMENTS.					
		DESIGN			300		
		CONSTRUCTION			525		4,350
		TOTAL FUNDING	TRN		825B		B
			TRN		E		4,350E
<b>TRN331 - KAHULUI HARBOR FACILITIES AND SERVICES</b>							
30.	M01	KAHULUI HARBOR IMPROVEMENTS, MAUI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		PAVE PARKING AREA, CONSTRUCT LIGHTED PEDESTRIAN WALKWAY AND ACCOMPLISH OTHER IMPROVEMENTS.					
		DESIGN		20			
		CONSTRUCTION		120			
		TOTAL FUNDING	TRN	140B			B
31.	M06	PIER 1 IMPROVEMENTS AT KAHULUI HARBOR					
		DEVELOPMENT OF PIER AND BACKUP AREA AND OTHER IMPROVEMENTS.					
		DESIGN		100			
		CONSTRUCTION				1,000	
		TOTAL FUNDING	TRN	100B		1,000B	
TRN361 - NAWILIWILI HARBOR FACILITIES AND SERVICES							
32.	K01	NAWILIWILI HARBOR IMPROVEMENTS, KAUAI					
		DEVELOPMENT OF PIER 1 BACK-UP AREA AT NAWILIWILI AND OTHER IMPROVEMENTS.					
		DESIGN		85			
		CONSTRUCTION		900			
		TOTAL FUNDING	TRN	85B		900B	
33.	K08	NAWILIWILI HARBOR PIER.					
		CONSTRUCTION OF RO/RO PIER, PIER EXTENSION AND OTHER IMPROVEMENTS.					
		DESIGN		250			
		CONSTRUCTION				3,000	
		TOTAL FUNDING	TRN	250B		3,000B	
			TRN	E		3,000E	
34.	K10	SHOP/WAREHOUSE IMPROVEMENTS AT NAWILIWILI HARBOR					
		EXPANSION OF SHOP/WAREHOUSE AND OTHER IMPROVEMENTS.					
		DESIGN		15			
		CONSTRUCTION		80			
		TOTAL FUNDING	TRN	95B			B
TRN395 - WATER TRANSPORTATION FAC & SVCS SUPPORT							
35.	I01	STATEWIDE HARBOR PLANNING					
		CONTINUING HARBOR STUDIES, RESEARCH AND ADVANCE PLANNING OF HARBOR AND TERMINAL FACILITIES ON ALL ISLANDS.					
		PLANS		130			
		TOTAL FUNDING	TRN	130B			B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
36.	103	MISCELLANEOUS IMPROVEMENTS TO FACILITIES AT NEIGHBOR ISLAND PORTS					
		IMPROVEMENTS TO YARD AREAS, SHEDS, PIERS, UTILITIES, WATER AREAS AND OTHER FACILITIES.					
		DESIGN			25		25
		CONSTRUCTION			100		105
		TOTAL FUNDING	TRN		125B		130B
37.	104	STATEWIDE COMMERCIAL HARBORS SEWER SYSTEM IMPROVEMENTS.					
		SEWER IMPROVEMENTS AT HONOLULU HARBOR INCLUDING PIERS 19 TO 33 AREAS.					
		PLANS			95		
		DESIGN			25		
		CONSTRUCTION			1,255		
		TOTAL FUNDING	TRN		120B		B
			TRN		1,255E		E
<b>TRN501 - OAHU HIGHWAYS AND SERVICES</b>							
38.	Q47	INTERSTATE ROUTE H-1, SAFETY IMPRV. AND RECONSTR. OF UNIV. AVE INTERCHANGE, OAHU					
		SAFETY IMPROVEMENTS AND RECONSTRUCTION OF UNIVERSITY AVENUE INTERCHANGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		LAND					2,900
		DESIGN			371		
		CONSTRUCTION					7,000
		TOTAL FUNDING	TRN		110D		1,287D
			TRN		261J		8,613J
39.	Q50	INTERSTATE H-2, WAIPIO INTERCHANGE, OAHU					
		PLAN, DESIGN AND CONSTRUCTION OF INTERCHANGE AT WAIPIO, OAHU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		CONSTRUCTION			6,538		
		TOTAL FUNDING	TRN		808D		D
			TRN		5,730J		J
40.	Q51	INTERSTATE H-1, RECONSTRUCTION TO MIDDLE STREET INTERCHANGE, OAHU.					
		RECONSTRUCTION TO MIDDLE STREET INTERCHANGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		LAND DESIGN			2,500		250
		TOTAL FUNDING	TRN		900D		90D
			TRN		1,600J		160J
41.		Q53 INTERSTATE H-1, MIDDLE STREET TO KEEAUMOKU STREET, OAHU.					
		TO INCREASE THE CAPACITY OF THE HIGHWAY FROM MIDDLE STREET TO KEEAUMOKU STREET, INCLUDING IMPROVING INGRESS AND EGRESS TO INTERSTATE H-1. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		LAND DESIGN			682		1,000
		TOTAL FUNDING	TRN		232D		400D
			TRN		450J		600J
42.		Q54 INTERSTATE H-1, KUNIA TO HALAWA INTRCHNG, AND H-2, MILILANI TO WAIAWA INTRCHNG, OAHU					
		ADDITIONAL LANES TO INCREASE THE INBOUND AND OUTBOUND CAPACITY OF INTERSTATE H-1, FROM KUNIA TO HALAWA INTERCHANGE AND INTERSTATE H-2, FROM MILILANI TO WAIAWA INTERCHANGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		DESIGN			50		
		CONSTRUCTION			3,848		
		TOTAL FUNDING	TRN		374D		D
			TRN		3,524J		J
43.		R30 INTERSTATE ROUTE H-3, JUNCTION AT H-1 TO KANEOHE MARINE CORPS AIR STATION, OAHU					
		INCREMENTAL CONSTRUCTION OF DIVIDED HIGHWAY FROM JUNCTION AT H-1 TO KANEOHE MARINE CORPS AIR STATION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		CONSTRUCTION			62,026		96,195
		TOTAL FUNDING	TRN		4,756D		11,544D
			TRN		57,270J		84,651J
44.		R52 CASTLE JUNCTION INTERCHANGE, KOOLAUPOKO, OAHU.					
		GRADE SEPARATION AT THE INTERSECTION OF KALANIANA'OLE, PALI AND KAMEHAMEHA HIGHWAYS. THIS					

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)				
ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	FISCAL	M	FISCAL	M
				YEAR	O	YEAR	O
				1987-88	F	1988-89	F
PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.							
PLANS				163			
LAND DESIGN						1,095	
TOTAL FUNDING				TRN	73D	900	
				TRN	90K	730D	
						1,265K	
45. R53 KAMEHAMEHA HIGHWAY, HELEMANO-WAIALUA JUNCTION TO HALEIWA BEACH PARK, OAHU							
REALIGNMENT AND IMPROVEMENT OF HIGHWAY FROM HELEMANO-WAIALUA JUNCTION TO HALEIWA BEACH PARK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.							
LAND DESIGN				1,558			
CONSTRUCTION				634			
TOTAL FUNDING				TRN	685D	6,550	
				TRN	1,507K	1,770D	
						4,780K	
46. R71 LIKELIKE HWY-KAHEKILI HWY INTERCHANGE, AND KAHEKILI HIGHWAY IMPROVEMENTS, OAHU							
LAND AND DESIGN FOR INTERCHANGE AT LIKELIKE HIGHWAY AND IMPROVEMENTS TO KAHEKILI HIGHWAY FROM LIKELIKE HIGHWAY TO KAMEHAMEHA HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.							
LAND DESIGN				716		165	
TOTAL FUNDING				TRN	716D	41D	
				TRN	K	124K	
47. R76 KALANIANAOLE HIGHWAY, AINAKOA TO LUNALILO HOME ROAD, OAHU							
DEVELOPING A TRANSPORTATION CORRIDOR INCLUDING HIGHWAYS, BIKEWAYS AND LAND TRANSIT SYSTEMS FROM HAWAII KAI TO DOWNTOWN HONOLULU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.							
LAND CONSTRUCTION				3,567		3,255	
TOTAL FUNDING				TRN	14,200	300	
				TRN	5,342D	1,212D	
						2,343K	



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
48.	S70	FORT WEAVER ROAD REALIGNMENT AND WIDENING, EWA, OAHU.					
		REALIGNMENT AND WIDENING OF FORT WEAVER ROAD INCLUDING IMPROVEMENTS TO KUNIA ROAD TO PROVIDE FOR A CONNECTION TO H-1 AND IMPROVEMENTS OF EXISTING TWO-LANE HIGHWAY TO A DIVIDED HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		LAND DESIGN			1,789		
					1,008		
		TOTAL FUNDING	TRN		1,121D		D
			TRN		1,676L		L
49.	S78	GUARDRAIL & SHOULDER IMPROVEMENTS AT VARIOUS LOCATIONS ON STATE HWYS ON OAHU.					
		UPGRADING OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING AND INSTALLATION OF METAL GUARDRAILS, CONCRETE SAFETY BARRIERS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON OAHU.					
		DESIGN			50		50
		CONSTRUCTION			325		330
		TOTAL FUNDING	TRN		375B		380B
50.	S80	HIGHWAY LIGHTING IMPROVEMENTS, OAHU					
		HIGHWAY LIGHTING IMPROVEMENTS AND REHABILITATION AT VARIOUS LOCATIONS ON OAHU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		CONSTRUCTION			1,997		
		TOTAL FUNDING	TRN		1,997D		D
51.	S81	TO INCR. SAFETY & CAPACITY OF INTER-STATE H-1 FROM MIDDLE ST. TO AINAKOA AVE, OAHU					
		DESIGN AND CONSTRUCTION OF HIGH OCCUPANCY VEHICLE (HOV) LANES ON INTERSTATE H-1 FROM KAPIOLANI INTERCHANGE TO AINAKOA AVE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		CONSTRUCTION			275		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		TOTAL FUNDING	TRN TRN		41D 234J		D J
52.		S83 SAND ISLAND ACCESS ROAD WIDENING AND IMPROVEMENTS, OAHU.					
		COMPLETION OF SAND ISLAND PARKWAY ROAD, CONSTRUCTION OF SECOND BRIDGE, WIDENING OF EXISTING ROAD TO NIMITZ HWY. AND CONSTRUCTION OF INTERCHANGE AT NIMITZ HWY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		LAND DESIGN			1,657		2,448
		TOTAL FUNDING	TRN TRN		497D 1,160K		734D 1,714K
53.		S90 KAMEHAMEHA HIGHWAY REALIGNMENT AT WAIMEA BAY, OAHU.					
		REALIGN KAMEHAMEHA HIGHWAY AWAY FROM ERODED ROCK OVERHANGS AT WAIMEA BAY.					
		CONSTRUCTION			1,000		
		TOTAL FUNDING	TRN		1,000D		D
54.		S95 FARRINGTON HIGHWAY. REPLACEMENT OF 7 TIMBER BRIDGES, MAKAHA, OAHU.					
		REPLACEMENT OF 7 TIMBER BRIDGES, MAKAHA # 2, # 3, # 3A, # 3B, # 4, # 5, # 5A ON FARRINGTON HWY, OAHU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		CONSTRUCTION			5,200		
		TOTAL FUNDING	TRN TRN		1,300D 3,900N		D N
55.		KAMEHAMEHA HIGHWAY, WILSON BRIDGE AND APPROACHES, OAHU					
		FUNDS FOR ENGINEERING COSTS.					
		CONSTRUCTION			280		
		TOTAL FUNDING	TRN		280D		D
56.		KALIHI STREET: IMPROVEMENTS FROM KING STREET TO NIMITZ HIGHWAY					
		PLANS, DESIGN, AND CONSTRUCTION OF SIDEWALKS, DRAINAGE SYSTEM, CURBING, INCLUDING GUTTERS.					
		PLANS			5		
		LAND			40		
		DESIGN			60		
		CONSTRUCTION			495		
		TOTAL FUNDING	TRN		600D		D

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
57.		KAMEHAMEHA HIGHWAY IMPROVEMENTS, MILILANI TOWARDS WAIAWA.			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS, INCLUDING WIDENING, LIGHTING, AND LANDSCAPING. (STATE FUNDS SHALL NOT BE EXPENDED PRIOR TO DEVELOPER'S COMMITMENT OF FUNDS TO THIS PROJECT.)			
		LAND		50 <sup>1</sup> 0	
		DESIGN		50 <sup>1</sup> 0	
		CONSTRUCTION		400 <sup>1</sup> 0	
		TOTAL FUNDING	TRN	500 <sup>1</sup> 0	C
58.		INTERSTATE H-1, PEARL CITY ON-RAMP ACCELERATION LANE, OAHU			
		CONSTRUCTION OF NEW HONOLULU-BOUND ACCELERATION LANE AND RELATED IMPROVEMENTS.			
		DESIGN		10 <sup>1</sup> 0	
		CONSTRUCTION		90 <sup>1</sup> 0	
		TOTAL FUNDING	TRN	100 <sup>1</sup> 0	C
59.		MOANALUA ROAD, VICINITY OF WAI'AU INTERCHANGE, OAHU			
		REALIGNMENT OF EXISTING LANES AND OTHER NECESSARY INTERSECTION IMPROVEMENTS, INCLUDING TRAFFIC LIGHTS.			
		DESIGN		20 <sup>1</sup> 0	
		CONSTRUCTION		130 <sup>1</sup> 0	
		TOTAL FUNDING	TRN	150 <sup>1</sup> 0	C
60.		KAMEHAMEHA HWY, LEHUA AVENUE TO MOANALUA ROAD, TRAFFIC LIGHT IMPROVEMENTS			
		SYNCHRONIZATION OF TRAFFIC LIGHTS AND RELATED IMPROVEMENTS.			
		DESIGN		50 <sup>1</sup> 0	
		CONSTRUCTION		449 <sup>1</sup> 0	
		EQUIPMENT		1 <sup>1</sup> 0	
		TOTAL FUNDING	TRN	500 <sup>1</sup> 0	C
TRN511 - HAWAII HIGHWAYS AND SERVICES					
61.		T16 HAWAII BELT ROAD, IMPROVEMENTS TO SECTION 19H, HAWAII			
		REALIGNMENT OF PORTION OF HAWAII BELT ROAD INCLUDING THE CONSTRUCTION OF THE KAPEHU AND KAALAU BRIDGES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		LAND			42		
		DESIGN			103		
		CONSTRUCTION					6,000
		TOTAL FUNDING	TRN		145D		1,500D
			TRN		N		4,500N
62.		T62 KEAAU-PAHOA RD., CONSTRUCTION AT PAHOA TOWN, PUNA, HAWAII.					
		CONSTRUCTION OF HIGHWAY FROM THE VICINITY OF KEONEPOKO HOMESTEADS TO PAHOA-KALAPANA ROAD IN THE VICINITY OF THE PAHOA-KALAPANA-KAPOHO ROAD JUNCTION, INCLUDING THE CONTIGUOUS SECTION OF THE PAHOA-KALAPANA ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		LAND			133		
		CONSTRUCTION					7,662
		TOTAL FUNDING	TRN		41D		2,118D
			TRN		92L		5,544L
63.		T75 KEAAU-PAHOA ROAD PUNA, HAWAII.					
		RECONSTRUCTION OF HIGHWAY FROM HAWAIIAN PARADISE PARK TO VICINITY OF KEONEPOKO HOMESTEADS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		CONSTRUCTION			760		
		TOTAL FUNDING	TRN		178D		D
			TRN		582L		L
64.		T77 GUARDRAIL AND SHOULDER IMPRVMENTS, AT VARIOUS LOCATIONS ON STATE HWYS ON HAWAII.					
		UPGRADING OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING AND INSTALLATION OF METAL GUARDRAILS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON HAWAII.					
		DESIGN			8		8
		CONSTRUCTION			180		180
		TOTAL FUNDING	TRN		188B		188B
65.		T79 HAWAII BELT ROAD, DRAINAGE IMPROVEMENTS DISTRICT OF KAU, HAWAII.					
		HYDROLOGIC STUDIES OF DRAINAGE BASINS WHICH CAUSE FLOODING OF HBR, AND SUBSEQUENT DRAINAGE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		IMPROVEMENTS INCLUDING NEW STRUCTURES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		LAND		200	
		CONSTRUCTION			1,280
		TOTAL FUNDING	TRN	200D	1,280D
66.		IMPROVEMENTS TO PUAINAKO EXTENSION ROADWAY AND SADDLE ROAD, HAWAII			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS OF SADDLE ROAD AND PUAINAKO EXTENSION ROADWAY; PROVIDED THAT ANY EXPENDITURE FOR SAID IMPROVEMENT SHALL OCCUR WITH THE CONCOMITANT CONSTRUCTION OF PUAINAKO EXTENSION ROADWAY.			
		DESIGN		+10	
		CONSTRUCTION		599 <sup>10</sup>	
		TOTAL FUNDING	TRN	600E <sup>10</sup>	C
<b>TRN531 - MAUI HIGHWAYS AND SERVICES</b>					
67.		V41 HALEAKALA HIGHWAY, HANA HIGHWAY TO KULA HIGHWAY, MAKAWAO, MAUI.			
		CONSTRUCTION OF HIGHWAY FROM HALIIMAILE ROAD TO KULA HIGHWAY JUNCTION, AND A TRUCK CLIMBING LANE FROM HANA HIGHWAY TO HALIIMAILE ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		CONSTRUCTION		7,661	
		TOTAL FUNDING	TRN	2,043D	D
			TRN	5,618K	K
68.		V43 PIILANI HIGHWAY, KIHEI TO ULUPALAKUA, MAUI.			
		INCREMENTAL CONSTRUCTION OF HIGHWAY FROM KIHEI TO ULUPALAKUA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		CONSTRUCTION		5,800	
		TOTAL FUNDING	TRN	1,740D	D
			TRN	4,060K	K
69.		V45 HANA HIGHWAY - HUELO TO HANA, MAUI.			
		REPAIR AND REPLACEMENT OF BRIDGES AND CULVERTS, SAFETY IMPROVEMENTS AND RESURFACING OF			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		HANA HIGHWAY FROM HUELO TO HANA.					
		DESIGN		50			
		CONSTRUCTION		990		500	
		TOTAL FUNDING	TRN	1,040D		500D	
70.	V48	GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS ON MAUI.					
		UPGRADING OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING AND INSTALLATION OF METAL GUARDRAILS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON MAUI.					
		DESIGN		66		66	
		CONSTRUCTION		660		660	
		TOTAL FUNDING	TRN	726B		726B	
71.	V49	HONOAPIILANI HIGHWAY CHAINLINK DRAPERY ALONG PALI SECTION, MAUI.					
		INSTALLATION OF CHAINLINK DRAPERY TO PREVENT ROCKS FROM FALLING ONTO HIGHWAY.					
		CONSTRUCTION		360			
		TOTAL FUNDING	TRN	360D			D
72.	V51	HONOAPIILANI HWY WIDENING &/OR REALIGNMENT, HONOLOWAI TO PUAMAWA, LAHAINA, MAUI					
		TO WIDEN THE EXISTING HIGHWAY AND/OR TO CONSTRUCT A NEW ALIGNMENT FROM HONOKOWAI TO PUAMANA, LAHAINA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		LAND		914			
		DESIGN		532			
		CONSTRUCTION		750		9,372	
		TOTAL FUNDING	TRN	668D		2,836D	
			TRN	1,528K		6,536K	
73.	V52	HANA HIGHWAY, REPLACEMENT OF THREE (3) TIMBER BRIDGES, HAIKU, MAUI.					
		REPLACEMENT OF THREE TIMBER BRIDGES, KAUPAKALUA BRIDGE, UAOA BRIDGE AND HOOLAWA BRIDGE. THIS PROJECT DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID OR FINANCING REIMBURSEMENT.					
		DESIGN		300		325	
		CONSTRUCTION		3,453		2,961	
		TOTAL FUNDING	TRN	998D		886D	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
			TRN		2,755N		2,400N
74.		KAHULUI BEACH ROAD AND KANALOA ROAD.					
		DESIGN AND CONSTRUCTION FOR TRAFFIC CONTROL LIGHTS.					
		DESIGN			60		
		CONSTRUCTION			140		
		TOTAL FUNDING	TRN		200C		C
75.		HALEAKALA HIGHWAY, MAUI					
		SHOULDER IMPROVEMENTS.					
		DESIGN			30 <sup>10</sup>		
		CONSTRUCTION			270 <sup>10</sup>		
		TOTAL FUNDING	TRN		300 <sup>10</sup>		C
76.		MOKULELE HIGHWAY, MAUI					
		WIDENING AND SHOULDER IMPROVEMENTS.					
		DESIGN			30 <sup>10</sup>		
		CONSTRUCTION			270 <sup>10</sup>		
		TOTAL FUNDING	TRN		300 <sup>10</sup>		C
TRN541 - MOLOKAI HIGHWAYS AND SERVICES							
77.		W08 GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS ON MOLOKAI.					
		UPGRADING OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING AND INSTALLATION OF METAL GUARDRAILS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON MOLOKAI.					
		DESIGN			60		
		CONSTRUCTION					600
		TOTAL FUNDING	TRN		60B		600B
78.		W07 KAMEHAMEHA V HIGHWAY AND MAUNALOA HWY REPLACEMENT OF BRIDGES, MOLOKAI.					
		REPLACEMENT OF HONOULIMALOO AND KAMALO BRIDGES ON KAM V HIGHWAY AND MANAWAINUI BRIDGE ON MAUNALOA HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		CONSTRUCTION			385		
		TOTAL FUNDING	TRN		96D		D
			TRN		289N		N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
<b>TRN551 - LANAI HIGHWAYS AND SERVICES</b>							
79.		W58 GUARDRAIL AND SHOULDER IMPROVEMENTS AT VARIOUS LOCATIONS ON STATE HWYS ON LANAI					
		UPGRADING OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING AND INSTALLATION OF METAL GUARDRAIL AND MODERNIZATION OF OF EXISTING GUARDRAIL AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON LANAI.					
		DESIGN					33
		TOTAL FUNDING	TRN		B		33B
<b>TRN561 - KAUAI HIGHWAYS AND SERVICES</b>							
80.		X03 KAUAI BELT RD., HANAIEI TO KALIHUWAI HANAIEI, KAUAI.					
		CONSTRUCTION OF HIGHWAY, INCLUDING APPURTENANT DRAINAGE, LANDSCAPING AND IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		LAND				555	
		DESIGN				41	
		CONSTRUCTION					3,227
		TOTAL FUNDING	TRN		291D		936D
			TRN		305K		2,291K
81.		X49 STATE HWYS, SAFETY IMPROVEMENTS AT VARIOUS LOCATIONS INCLUDING DRAINAGE, KAUAI					
		SAFETY IMPROVEMENTS AT VARIOUS LOCATIONS ON KAUAI INCLUDING WIDENING, RECONSTRUCTING, RESURFACING, INSTALLING GUARDRAILS AND PAVEMENT MARKERS, AND OTHER IMPROVEMENTS NECESSARY TO ENHANCE SAFETY.					
		LAND				30 <sup>1</sup> 0	
		DESIGN				80 <sup>1</sup> 0	
		CONSTRUCTION				540 <sup>1</sup> 0	150
		TOTAL FUNDING	TRN		600 <sup>1</sup> 0		C
			TRN		500 <sup>1</sup> 0		150D
82.		X51 GUARDRAIL AND SHOULDER IMPROVEMENTS AT VARIOUS LOCATIONS ON STATE HWYS ON KAUAI					
		UPGRADING OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING & INSTALLATION OF METAL GUARDRAILS & MODERNIZATION OF					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
EXISTING GUARDRAILS AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON KAUAI.							
		DESIGN		10			
		CONSTRUCTION		150		202	
		TOTAL FUNDING	TRN	160B		202B	
83. KUHIO HIGHWAY SAFETY IMPROVEMENTS-KAUAI							
DESIGN AND CONSTRUCT SECOND NORTH BOUND LAND (AND OTHER NECESSARY IMPROVEMENTS) BETWEEN RICE STREET AND WILCOX HOSPITAL AND APPROPRIATE LEFT-HAND TURN BAYS BETWEEN LIHUE AND KEALIA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.							
		DESIGN		160			
		CONSTRUCTION				2,150	
		TOTAL FUNDING	TRN	59D		517D	
			TRN	101N		1,633N	
84. NAWILIWILI ROAD SAFETY IMPROVEMENTS, KAUAI							
PLANNING, DESIGN AND CONSTRUCTION OF SAFETY IMPROVEMENTS AT INTERSECTION OF KUHIO HIGHWAY AND NAWILIWILI ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.							
		PLANS				20	
		LAND				90	
		DESIGN				75	
		CONSTRUCTION				1,160	
		TOTAL FUNDING	TRN		D	448D	
			TRN		N	897N	
85. TRAFFIC SIGNAL, INTERSECTION OF HALEILIO ROAD AND KUHIO HIGHWAY, KAUAI							
DESIGN AND CONSTRUCTION OF TRAFFIC LIGHT.							
		DESIGN		20			
		CONSTRUCTION				105	
		TOTAL FUNDING	TRN	20D		35D	
			TRN		N	70N	

TRN595 - LAND TRANSPORTATION FAC & SVCS SUPPORT

86. X91 CONSTRUCTION OF WHEELCHAIR RAMPS-STATEWIDE

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		CONSTRUCTION OF WHEELCHAIR RAMP AT VARIOUS LOCATIONS ALONG STATE HIGHWAYS, STATEWIDE.					
		DESIGN		15			
		CONSTRUCTION		185			
		TOTAL FUNDING	TRN	200D			D
87.	X96	CLOSE-OUT OF HIGHWAY RIGHTS-OF-WAY STATEWIDE					
		TO ACQUIRE CLEAR TITLE TO REAL PROPERTY USED FOR THE CON- STRUCTION OF PREVIOUS HIGHWAY PROJECTS WHERE APPLICABLE, TO PROVIDE FOR THE TRANSFER OF REAL PROPERTY INTEREST FROM THE STATE TO THE COUNTIES FOR THE IMPLEMENTATION OF THE STATE HIGHWAY SYSTEM.					
		LAND		300		300	
		TOTAL FUNDING	TRN	300D		300D	
88.	X97	MISCELLANEOUS DRAINAGE IMPROVE- MENTS, STATEWIDE					
		DRAINAGE IMPROVEMENTS TO EX- ISTING HIGHWAY FACILITIES.					
		LAND		5		5	
		DESIGN		15		15	
		CONSTRUCTION		80		80	
		TOTAL FUNDING	TRN	100D		100D	
89.	X98	MISCELLANEOUS IMPROVEMENTS TO EX- ISTING INTERSEC & HWY FACILITIES, STATEWIDE					
		MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR TRAFFIC SAFETY, INCLUDING ELIMI- NATION OF CONSTRUCTIONS, ON-AND- OFF SITE, EFFECTING EFFICIENT FLOW OF TRAFFIC ON INTERSTATE HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDER- AL AID FINANCING OR REIMBURSE- MENT.					
		LAND		100		100	
		DESIGN		335		335	
		CONSTRUCTION		2,115		2,115	
		TOTAL FUNDING	TRN	925D		925D	
			TRN	1,625N		1,625N	
90.	X99	HIGHWAY PLANNING, STATEWIDE.					
		ROAD USE, ROAD LIFE, ECONOMIC STUDIES, RESEARCH AND ADVANCE PLANNING OF FEDERAL-AID AND NON FEDERAL-AID HIGHWAY PROJECTS. THIS PROJECT IS DEEMED					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89

NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

PLANS			2,567	2,416
TOTAL FUNDING	TRN		867B	816B
	TRN		1,700N	1,600N

D. ENVIRONMENTAL PROTECTION

HTH840 - SOLIDS, LIQUIDS, GASES, AND NOISE

1. 840001 SEWERAGE CONSTRUCTION GRANTS

GRANTS TO COUNTY OR STATE AGENCY FOR ELIGIBLE WATER POLLUTION CONTROL FACILITIES CONFORMING WITH THE STATE WPC PLAN AUTHORIZED BY ACT 187/79. STATE MAY MAKE GRANTS TO FINANCE ELIGIBLE PLANNING, DESIGN AND/OR CONSTRUCTION COSTS OF PROJECTS RECEIVING FEDERAL GRANTS.

PLANS			50	75
DESIGN			80	200
CONSTRUCTION			2,470	5,225
TOTAL FUNDING	HTH		A	5,500A
	HTH		2,600C	C

LNR402 - FORESTS AND WILDLIFE RESOURCES

2. D06 KAUAI DLNR BASEYARD

ADDITION TO THE DLNR BASEYARD TO INCLUDE CONSTRUCTION OF A 50' X 120' ENCLOSED PARKING AND STORAGE BUILDING FOR FIRE EQUIPMENT, 30' X 110' WAREHOUSE BUILDING AND 20' X 75' COVERED PARKING BUILDING FOR OTHER DLNR DIVISIONS, 25' X 40' EXTENSION OVER MECHANIC SHOP AND 25' X 50' EXTENSION OVER CARPENTER SHOP.

PLANS			10	
DESIGN			35	
CONSTRUCTION			50	397
TOTAL FUNDING	LNR		95C	397C

3. KAWAI NUI MARSH PROJECT, ACQUISITION OF ADJACENT LAND

FUNDS FOR AQUISITION OF LAND ADJACENT TO KAWAI NUI MARSH, IDENTIFIED BY TAX MAP KEY 4-2-16:02.

LAND			500	
TOTAL FUNDING	LNR		500C	C

4. D24 VISITOR PARKING AT KANAHA POND SANCTUARY, MAUI

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		PLANNING, DESIGN AND PAVING OF THE 80 FEET BY 60 FEET VISITOR PARKING LOT AT KANAHA POND WILDLIFE SANCTUARY TO IMPROVE VEHICULAR INGRESS AND EGRESS AND PARKING CONDITIONS AT THE PUBLIC VIEWING AREA.					
		PLANS			2		
		DESIGN			4		
		CONSTRUCTION			15		
		TOTAL FUNDING	LNR		21C		C
5.	D40	KEKAHA--MANA WILDLIFE SANCTUARY IMPROVEMENTS, KAUAI					
		DEVELOPMENT OF WATER CONTROL STRUCTURES, MOATS, PUMPS, ISLAND SIGNS AND MARKERS ACCESS ROADS, FENCES, BRIDGES, DITCHES DIKES, CULVERTS AND STAFF OR PUBLIC VIEWING FACILITIES.					
		PLANS			5		
		DESIGN			10		
		CONSTRUCTION			60		60
		TOTAL FUNDING	LNR		75C		60C
6.	D49	PUU WAAWAA WILDLIFE SANCTUARY DEVELOPMENT, HAWAII					
		PROJECT WILL INCLUDE THE CONSTRUCTION OF APPROXIMATELY 4.50 MILES OF BOUNDARY ROADS, APPROXIMATELY 5.50 MILES OF BOUNDARY FENCE RECONSTRUCTION, APPROXIMATELY 3.50 MILES OF BOUNDARY AND ENCLOSURE FENCE CONSTRUCTION, CONSTRUCTION OF TWO ALALA RELEASE PENS WITH OBSERVATION BLINDS, CONSTRUCTION OF TWO OBSERVATION TOWERS, AND THE CONSTRUCTION OF A TWO BEDROOM FIELD CABIN WITH WATER CATCHMENT.					
		PLANS			5		3
		DESIGN			7		5
		CONSTRUCTION			190		85
		EQUIPMENT					10
		TOTAL FUNDING	LNR		202C		103C
7.	D50	KAHULUI DOFAW NURSERY GREENHOUSE MAUI					
		CONSTRUCT A 80' X 25' GREENHOUSE WITH PIPE FRAME, CLEAR FIBERGLASS ROOF, AND 3 SIDED SARAN FABRIC WALLS OVER A 85' X 55' ASPHALT PAVED AREA. THIS STRUCTURE TO SERVE AS PROPAGATION FACILITY FOR KAHOOLAWA RECLAMATION PROJECT.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		PLANS		2			
		DESIGN		5			
		CONSTRUCTION		30			
		TOTAL FUNDING	LNR	37C			C
8.	D-15	ARBORETA DEVELOPMENT IMPROVEMENT KAUAI					
		CONSTRUCT PAVED PARKING AREAS AT KEAHUA FORESTRY ARBORETUM.					
		PLANS		1			
		DESIGN		2			
		CONSTRUCTION		24			
		TOTAL FUNDING	LNR	27C			C
9.	D-23	HAWAII ENDANGERED SPECIES FACILITY, MAUI					
		PLANNING, DESIGN, CONSTRUCTION, AND RENOVATION OF AN ENDANGERED SPECIES FACILITY TO MAINTAIN AND BREED ENDANGERED SPECIES IN CAPTIVITY FOR RESEARCH AND RELEASE INTO THE WILD INCLUDING FACILITIES FOR RESEARCH, VETERINARY MEDICINE AND SECURITY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND REIMBURSEMENT.					
		PLANS		10		2	
		DESIGN		50		2	
		CONSTRUCTION		610		30	
		EQUIPMENT		10		5	
		TOTAL FUNDING	LNR	680C		39C	
10.	D04H	FENCE CONSTRUCTION - PORTION OF KAU AND KAPAPALA FOREST RESERVE BOUNDARIES, HI					
		CONSTRUCTION OF APPROXIMATELY SEVEN MILES OF STANDARD FOREST BOUNDARY FENCE. PROJECT WILL REQUIRE THE CLEARING OF TREES ALONG THE FENCE ALIGNMENT WHICH COULD FALL ONTO AND DAMAGE THE FENCE, GRADING OF THE ALIGNMENT, AND THE CONSTRUCTION OF A WOVEN WIRE FENCE.					
		PLANS		4			
		DESIGN		12			
		CONSTRUCTION		155			
		TOTAL FUNDING	LNR	171C			C
11.	D04M	KAHIKINUI FOREST RESERVE FENCE LINE, MAUI					
		CONSTRUCT 6 MILES OF KIAWE POST-HOG WIRE FENCE ALONG THE SOUTHERN BOUNDARY OF THE LAND					

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OF PAPANUI IN THE KAHIKINUI FOREST RESERVE.					
		CONSTRUCTION		35			
		TOTAL FUNDING	LNR	35C			C
<b>LNR404 - WATER RESOURCES</b>							
12.	J17	WAI AHOLE DITCH BULKHEADING PROJECT, OAHU					
		PLANS, DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO CAPTURE, STORE, AND CONTROL THE WATER FROM THE DIKE COMPLEX THAT FEEDS THE WAI AHOLE DITCH SYSTEM INCLUDING OTHER INCIDENTAL AND APPURTENANT WORK.					
		PLANS		50			
		LAND		50			
		DESIGN		200			
		CONSTRUCTION				800	
		TOTAL FUNDING	LNR	300C		800C	
13.	J20	KAHUKU MONITOR WELL, KOOLAUPOKO, OAHU					
		DESIGN AND DRILLING A MONITOR WELL INTO THE KAHUKU GROUNDWATER AQUIFER INCLUDING CORE SAMPLING, CASING INSTALLATION, OTHER INCIDENTAL AND APPURTENANT WORK.					
		LAND		20			
		DESIGN		25			
		CONSTRUCTION		350			
		TOTAL FUNDING	LNR	395C			C
14.	J21	KOLOA-POIPU MONITOR WELL, KAUAI					
		DESIGN AND DRILLING OF A MONITOR WELL INTO THE GROUNDWATER AQUIFER INCLUDING CORE SAMPLING, CASING INSTALLATION AND OTHER INCIDENTAL AND APPURTENANT WORK.					
		LAND		20			
		DESIGN		40			
		CONSTRUCTION		560			
		TOTAL FUNDING	LNR	620C			C
15.	J24	WAIALUA MONITOR WELL, OAHU					
		DESIGN AND DRILLING A MONITOR WELL, INSTALLING CASING, CORE SAMPLING AND OTHER INCIDENTAL AND APPURTENANT WORK.					
		LAND		23			
		DESIGN		27			
		CONSTRUCTION		385			
		TOTAL FUNDING	LNR	435C			C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
<b>E. HEALTH</b>					
<b>HTH111 - HANSEN'S DISEASE</b>					
1.		FATHER DAMIEN CHAPEL RESTORATION, MOLOKAI			
		DESIGN AND CONSTRUCTION TO RESTORE FATHER DAMIEN CHAPEL RESTORATION, ST. PHILOMENA CHURCH, KAUNAKAKAI, MOLOKAI.			
		DESIGN		5	
		CONSTRUCTION		45	
		TOTAL FUNDING	AGS	50C	C
2.	111002	KALAUPAPA GASOLINE STORAGE TANKS			
		DESIGN AND CONSTRUCTION OF GASOLINE STORAGE TANKS AT KALAUPAPA SETTLEMENT.			
		DESIGN		48	
		CONSTRUCTION		441	
		TOTAL FUNDING	AGS	489C	C
<b>HTH211 - HILO HOSPITAL</b>					
3.	211001	HILO HOSPITAL PSYCHIATRIC INPATIENT CARE UNIT			
		CONSTRUCT PSYCHIATRIC INPATIENT CARE UNIT BY RENOVATING EXISTING OLD HOSPITAL OR CONSTRUCTING A NEW STRUCTURE.			
		CONSTRUCTION		1,628	
		TOTAL FUNDING	AGS	1,628C	C
<b>HTH212 - HONOKAA HOSPITAL</b>					
4.		NEW HOSPITAL FACILITY, HONOKAA			
		DESIGN FOR A FACILITY AT HONOKAA TO REPLACE THE PRESENT STRUCTURES THAT DO NOT CONFORM TO CODE AND LICENSURE/CERTIFICATION STANDARDS.			
		DESIGN		300	
		TOTAL FUNDING	AGS	300C	C
<b>HTH213 - KA'U HOSPITAL</b>					
5.	213001	KAU HOSPITAL ADDITION AND IMPROVEMENTS			
		CONSTRUCT MAINTENANCE OFFICE AND STORAGE ROOM AND ERECT FENCING ALONG HOSPITAL BOUNDARY.			
		DESIGN		20	
		CONSTRUCTION		137	
		TOTAL FUNDING	AGS	157C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
<b>HTH215 - KONA HOSPITAL</b>							
6.	215001	KONA HOSPITAL					
		DESIGN FOR RENOVATION AND EXPANSION OF EXISTING FACILITY.					
		DESIGN			260		
		TOTAL FUNDING	AGS		260C		C
<b>HTH221 - MAUI MEMORIAL HOSPITAL</b>							
7.	221001	MAUI MEMORIAL HOSPITAL 2ND INCREMENT RENOVATION OF 1952 HOSPITAL BUILDING					
		PLANS, CONSTRUCTION, RENOVATION AND MODIFICATION OF EXISTING HOSPITAL FACILITIES TO UPGRADE MEDICAL, SURGICAL, PSYCHIATRIC NURSING UNITS AND TO UPGRADE ANCILLARY SERVICES. MASTER PLAN COMPLETED (1974) CERTIFICATION OF NEED APPROVED. PROJECT TO INCLUDE REMOVAL OF ASBESTOS.					
		DESIGN			454		
		CONSTRUCTION				11,292	
		EQUIPMENT				500	
		TOTAL FUNDING	AGS		454C	11,792C	
<b>HTH224 - LANAI HOSPITAL</b>							
8.		LANAI HOSPITAL RENOVATION					
		ADDITIONAL SPACE FOR PATIENT ACTIVITIES AND AUXILIARY ACTIVITIES TO MEET MEDICARE/MEDICAID LICENSURE STANDARDS.					
		DESIGN			50		
		TOTAL FUNDING	AGS		50C		C
<b>HTH231 - KAUAI VETERANS MEMORIAL HOSPITAL</b>							
9.	231001	KAUAI VET. MEMORIAL HOSP. RENOV AND CONSTR FOR ACUTE & LONG TERM CARE BEDS					
		DESIGN AND RENOVATION/CONSTRUCTION FOR ACUTE MEDICAL/ SURGICAL NURSING UNIT AND LONG TERM CARE BEDS.					
		DESIGN			150		
		CONSTRUCTION				1,800	
		EQUIPMENT				200	
		TOTAL FUNDING	AGS		A	2,000A	
			AGS		150C		C
10.	231004	KAUAI VETERANS MEMORIAL HOSPITAL UPGRADE WATER LINES					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN AND CONSTRUCTION TO INSTALL NEW WATER LINES FOR THE HOSPITAL AND NURSES' QUARTERS. NEW LINES TO BE REROUTED IN DIFFERENT LOCATION FROM EXISTING LINES.					
		DESIGN			5		
		CONSTRUCTION			35		
		TOTAL FUNDING	AGS		40C		C
11.	231005	KAUAI VETERANS MEMORIAL HOSPITAL ASBESTOS REMOVAL					
		DESIGN AND CONSTRUCTION TO REMOVE ASBESTOS THROUGHOUT THE HOSPITAL.					
		CONSTRUCTION			500		
		TOTAL FUNDING	AGS		500C		C
<b>HTH232 - SAMUEL MAHELONA MEMORIAL HOSPITAL</b>							
12.		SAMUEL MAHELONA MEMORIAL HOSPITAL NEW PATIENT CARE UNIT					
		DESIGN FOR A NEW PATIENT CARE WING IN ACCORDANCE WITH THE HOSPITAL PROJECT DEVELOPMENT REPORT.					
		DESIGN			50		
		TOTAL FUNDING	AGS		50C		C
<b>HTH241 - MALUHIA HOSPITAL</b>							
13.	241001	MALUHIA HOSPITAL DAY HOSPITAL EXPANSION					
		DESIGN & CONSTRUCTION FOR DAY HOSPITAL WING.					
		DESIGN			2		
		CONSTRUCTION			300		
		EQUIPMENT			24		
		TOTAL FUNDING	AGS		326C		C
14.	241002	RENOVATE 1ST FLR. & BASEMENT FOR USE AS ICF/SNF BEDS & RESPITE CARE-MALUHIA HOSP					
		DESIGN, CONSTRUCTION & EQUIPMENT FOR RENOVATION OF MAUKA AND MAKAI WINGS ON 1ST FLOOR FOR ICF/SNF BEDS NURSES STATION CLEAN AND DIRTY UTILITY ROOMS, STORAGE FOR LINENS AND SUPPLIES AND MEDICINE ROOM. COMBINED DINING AND ACTIVITY AREA FOR PATIENTS ARE REQUIRED; LARGE CONFERENCE ROOM FOR USE BY STAFF.					
		DESIGN			100		
		CONSTRUCTION				853	

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		EQUIPMENT					101
		TOTAL FUNDING	AGS		A		954A
			AGS		100C		C
<b>HTH242 - LEAHI HOSPITAL</b>							
15.	242002	LEAHI HOSPITAL ASBESTOS REMOVAL STUDY					
		PREPARATION OF PLANS, SPECIFICATIONS, & COST ESTIMATES FOR THE REMOVAL OF ASBESTOS AT LEAHI HOSPITAL.					
		DESIGN				125	
		TOTAL FUNDING	AGS			125C	C
16.	242004	LEAHI HOSPITAL UPGRADE ELECTRICAL					
		DESIGN AND CONSTRUCTION TO UPGRADE EXISTING ELECTRICAL SYSTEMS AT SINCLAIR, MAINTENANCE AND ADMINISTRATION BUILDING.					
		DESIGN				25	
		CONSTRUCTION					159
		TOTAL FUNDING	AGS			25A	159A
<b>HTH430 - HAWAII STATE HOSPITAL</b>							
17.	430001	HAWAII STATE HOSPITAL-PLANS AND CONSTRUCT FOR DEV. OF HOSP. INCLUD MODIF & RENOV.					
		PLANS AND CONSTRUCTION FOR DEVELOPMENT OF STATE HOSPITAL INCLUDING RENOVATIONS AND MODIFICATIONS. DESIGN TO INCLUDE RENOVATIONS TO CISU, GODDARD, AND ADOLESCENT BUILDINGS AFTER NEW FACILITIES ARE OCCUPIED. DESIGN AND CONSTRUCTION TO INCLUDE RELOCATION AND/OR CONSTRUCTION TO ACCOMMODATE THE COMMUNITY COLLEGE FACILITIES LOCATED ON THE STATE HOSPITAL PROPERTY.					
		DESIGN				10	
		CONSTRUCTION				14,490	
		EQUIPMENT				500	
		TOTAL FUNDING	AGS			15,000C	C
<b>HTH511 - WAIMANO TRAINING SCHOOL AND HOSPITAL</b>							
18.	511001	WAIMANO TRAINING SCHOOL AND HOSPITAL.					
		DESIGN AND CONSTRUCTION FOR REMOVAL OF ASBESTOS.					
		DESIGN				3	
		CONSTRUCTION				27	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		TOTAL FUNDING	AGS		30C		C
19.	511002	CONVERT WAIMANO TRAINING SCHOOL & HOSP'S PRIMARY ELECTRICAL SYSTEM TO HECO.					
		HAWAIIAN ELECTRIC COMPANY TO REPLACE WAIMANO TRAINING SCHOOL AND HOSPITAL'S PRIMARY ELECTRICAL SYSTEM. MAINTENANCE OF THE PRIMARY ELECTRICAL SYSTEM SHALL BE BORNE BY HAWAIIAN ELECTRIC COMPANY. CONVERSION IS NECESSARY TO STABILIZE POWER FLUCTUATION, WHICH CAUSE MOTOR AND EQUIPMENT SHUTDOWN. CURRENT SYSTEM IS OVERLOADED AND UNABLE TO HANDLE INCREASED POWER DEMANDS.					
		DESIGN			7		
		CONSTRUCTION			304		
		TOTAL FUNDING	AGS		311C		C
<b>HTH901 - LABORATORY SERVICES</b>							
20.	901001	NEW LAB FACILITY-SITE SELECTION STUDY ENVIRONMENTAL IMPACT STATEMENT					
		SITE SELECTION STUDY, EIS, PDR FOR DOH FACILITIES TO INCLUDE BUT NOT LIMITED TO LABORATORY AND VECTOR CONTROL FACILITIES.					
		PLANS			180		
		TOTAL FUNDING	AGS		180C		C
<b>HTH907 - GENERAL ADMINISTRATION</b>							
21.	907003	DIAMOND HEAD HEALTH CENTER RENOVATION					
		RENOVATE TREATMENT AND CLINIC ROOMS TO ACCOMMODATE OFFICE STAFF AND EQUIPMENT.					
		DESIGN			32		
		CONSTRUCTION				296	
		TOTAL FUNDING	AGS		32C	296C	
22.	907006	WAIPAHU HEALTH CENTER RENOVATION					
		DESIGN AND CONSTRUCTION TO RENOVATE THE HEALTH CENTER & PROVIDE ADDITIONAL SPACE.					
		DESIGN			23		
		CONSTRUCTION			195		
		TOTAL FUNDING	AGS		218C		C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89

SUB601 - PRIVATE HOSPITALS & MEDICAL SERVICES

23. WAIANAEO COAST COMPREHENSIVE HEALTH CENTER, OAHU.

PLANS, DESIGN, AND CONSTRUCTION FOR EXPANSION AND RENOVATION OF THE WAIANAEO COAST COMPREHENSIVE HEALTH CENTER.

GRANT-IN-AID.

PLANS		50	
DESIGN		150	
CONSTRUCTION		1,300	
TOTAL FUNDING	HTH	1,500C	

F. SOCIAL SERVICES

SOC220 - RENTAL HOUSING AUGMENTATION AND ASSISTANCE

1. HA8801 IMPROVEMENT OF EXTERIOR LIGHTING SYSTEM AT PALOLO HOMES II

INSTALLATION OF ADDITIONAL EXTERIOR LIGHTS AND UPGRADING PRESENT SYSTEM WITH VANDALPROOF FIXTURES.

DESIGN		12	
CONSTRUCTION		250	
TOTAL FUNDING	SOC	262C	

2. HA8802 INSTALLATION OF TILE FLOOR COVERING AT PALOLO HOMES I AND II

INSTALL FLOOR COVERING IN 306 ENTIRE DWELLING UNITS.

DESIGN		10	
CONSTRUCTION		550	
TOTAL FUNDING	SOC	560C	

3. HA8803 CONVERT WINDOWS AND SCREENS FOR 23 BUILDINGS AT PUAHALA HOMES I, II, III, AND IV

CHANGE WINDOW AND SCREENS TO ALUMINUM FRAME WITH JALOUSIES.

DESIGN		8	
CONSTRUCTION		100	
TOTAL FUNDING	SOC	108C	

4. HA8804 RETAINING WALLS FOR BUILDING NOS. 1583, 1611, AND 1609 AT HAUICI

INSTALLATION AND CONSTRUCTION OF RETAINING WALLS.

DESIGN		6	
CONSTRUCTION		50	
TOTAL FUNDING	SOC	56C	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
5.	HA8805	SECURITY IMPROVEMENTS TO GROUND FLOOR UNITS AT PALOLO HOMES II					
		INSTALLATION OF SOLID CORE DOORS, DEAD BOLT DOOR LOCKS AND WIDE-ANGLE VIEWERS, AND UP-GRADED WINDOW LOCKS.					
		DESIGN			15		
		CONSTRUCTION			450		
		TOTAL FUNDING	SOC		465C		C
6.	HA8806	ENCLOSURE FOR LAUNDRY AREAS AT PALOLO HOMES II					
		INSTALL ENCLOSURES WITH CMU/ CONCRETE CONSTRUCTION INCLUDING DOORS WITH LOCKS.					
		DESIGN			12		
		CONSTRUCTION			300		
		TOTAL FUNDING	SOC		312C		C
7.	HA8807	IMPROVEMENTS AT PUAHALA HOMES					
		INSTALLATION OF NON-SKID TREADS ON INTERIOR STAIRS AT PUAHALA I, II, III, AND EXTERIOR STAIRS AT PUAHALA II, III, AND IV, PLASTIC LAMINATED PANELS ON WALL BEHIND RANGES, AND FLOOR TILES IN BEDROOMS AND LIVING ROOMS AT PUAHALA I, II, III					
		DESIGN			8		
		CONSTRUCTION			150		
		TOTAL FUNDING	SOC		158C		C
8.	HA8809	IMPROVEMENTS TO GROUNDS AT WAIMANALO					
		CONSTRUCTION OF A RETAINING WALL AND FENCING ALONG THE REAR OF THE PROPERTY.					
		CONSTRUCTION			64		
		TOTAL FUNDING	SOC		64C		C
9.	HA8810	PLAN NEW OFFICE BUILDING PARKING AND MAINTENANCE FACILITIES					
		PLANS FOR NEW BUILDING, MAINTENANCE GARAGE AND OFFICE-WAREHOUSE, INCLUDING SITEWORK AND PARKING.					
		DESIGN			200		
		TOTAL FUNDING	SOC		200C		C
10.	HA8821	RELOCATE SEWER CLEANOUTS FOR EACH DWELLING UNIT AT LOKAHI					
		CONSTRUCT SEWER CLEANOUTS IN ACCESSIBLE LOCATIONS.					

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN			5		
		CONSTRUCTION			35		
		TOTAL FUNDING	SOC		40C		C
11.	HA8822	INSTALLATION OF NEW CLEANOUTS AT HAUIKI					
		INSTALL AND CONSTRUCT NEW CLEANOUTS FOR EACH DWELLING UNIT AT HAUIKI.					
		DESIGN			5		
		CONSTRUCTION			60		
		TOTAL FUNDING	SOC		65C		C
<b>SOC225 - PRIVATE HOUSING DEVELOPMENT &amp; OWNERSHIP</b>							
12.	ELDERLY HOUSING PROJECTS						
		FUNDS ARE PROVIDED FOR LAND ACQUISITION, PLANNING, DESIGN, AND CONSTRUCTION OF ELDERLY RENTAL HOUSING PROJECTS FOR KAPUNA II.					
		PLANS			100		
		LAND			1,310		
		DESIGN			800		
		CONSTRUCTION			13,830		
		EQUIPMENT			60		
		TOTAL FUNDING	AGS		16,100C		C
13.	WAILANI STREAM DRAINAGE IMPROVEMENTS						
		PLANNING, DESIGN, AND CONSTRUCTION OF WAILANI STREAM DRAINAGE IMPROVEMENTS.					
		PLANS			50		
		DESIGN			100		
		CONSTRUCTION					1,500
		TOTAL FUNDING	HHA		150C		1,500C
14.	KEALAKEHE MASTER PLANNING						
		MASTER PLANNING AND DESIGN OF UNDEVELOPED STATE LAND SITUATED IN KEALAKEHE, NORTH KONA, HAWAII (MAUKA AND MAKAI PARCELS).					
		PLANS			500		
		TOTAL FUNDING	LNR		500C		C
15.	KEALAKEHE MULTI-FAMILY WATER SYSTEM IMPROVEMENTS.						
		LAND ACQUISITION, PLANS, DESIGN AND CONSTRUCTION OF STORAGE AND TRANSMISSION IMPROVEMENTS.					
		LAND			200		
		DESIGN			100		
		CONSTRUCTION			1,000		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		TOTAL FUNDING	HHA	1,300C			C
16.		FEASIBILITY OF HOUSING DEVELOPMENT IN SOUTH POINT AREA OF HAWAII					
		PLANS FOR HOUSING DEVELOPMENT IN THE SOUTH POINT AREA OF THE BIG ISLAND.					
		PLANS		100			
		TOTAL FUNDING	HHA	100C			C
<b>SOC807 - TEACHER HOUSING</b>							
17.		HA8825 LANAI TEACHERS COTTAGES					
		CONSTRUCTION OF NEW TEACHERS COTTAGES.					
		DESIGN		25			
		CONSTRUCTION		420			
		TOTAL FUNDING	AGS	445C			C
18.		HA8826 REPLACEMENT OF ONE DUPLEX COTTAGE AT WAIMEA TEACHERS HOUSING SITE					
		CONSTRUCTION OF ONE 2-BEDROOM 1-BATH DUPLEXES AT WAIMEA.					
		DESIGN		7			
		CONSTRUCTION		68			
		TOTAL FUNDING	AGS	75C			C
19.		HA8827 KOHALA TEACHER COTTAGES					
		CONSTRUCTION OF THREE 3-BEDROOM 2-BATH COTTAGES AND THREE 2-BEDROOM 1-BATH DUPLEXES					
		DESIGN		25			
		CONSTRUCTION		360			
		TOTAL FUNDING	AGS	385C			C
<b>HHL602 - PLANNG, DEV, MGT &amp; GEN SPPT FOR HAWN HMSTDS</b>							
20.		LMD001 HAWAIIAN HOME LANDS DEVELOPMENT, STATEWIDE					
		DEVELOPMENT OF HAWAIIAN HOME LANDS FOR RESIDENTIAL, AGRICULTURAL, AND OTHER PURPOSES PERMITTED BY THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED, INCLUDING PLANS, DESIGN AND THE CONSTRUCTION OF ON-SITE (SUCH AS GRADING, ROADS AND UTILITIES) AND OFF-SITE IMPROVEMENTS. FUNDS NOT NEEDED IN A COST ELEMENT MAY BE USED IN ANOTHER.					
		PLANS		200		240	
		DESIGN		2,000		800	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		CONSTRUCTION		9,100		5,880	
		TOTAL FUNDING	HHL	1,700A		850A	
			HHL	9,600C		6,070C	
21. LMD004 HAWAIIAN HOME LANDS ECONOMIC DEVELOPMENT STATEWIDE							
DEVELOPMENT OF HAWAIIAN HOME LANDS FOR RESIDENTIAL, AGRICULTURAL, COMMERCIAL, INDUSTRIAL, RESORT AND OTHER PURPOSES PERMITTED BY THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED, INCLUDING PLANS, DESIGN AND THE CONSTRUCTION OF ON-SITE (SUCH AS GRADING, ROADS, AND UTILITIES) AND OFF-SITE IMPROVEMENTS. FUNDS NOT NEEDED IN A COST ELEMENT MAY BE USED IN ANOTHER.							
		PLANS		150			
		DESIGN		775		90	
		CONSTRUCTION		300		1,893	
		TOTAL FUNDING	HHL	1,225D		1,983D	
22. LMD005 WAIMANALO GRAVITY SEWER SYSTEM, SECTION 5, HAWAIIAN HOMES SUBDIVISION							
DESIGN AND CONSTRUCTION OF GRAVITY SEWER SYSTEM TO PROVIDE SEWAGE DISPOSAL FOR EXISTING AND FUTURE HOMES IN THE WAIMANALO RESIDENCE LOTS, SECTION 5, HAWAIIAN HOMES SUBDIVISION. FUNDS APPROPRIATED MAY BE USED TO MATCH FEDERAL FUNDS							
		DESIGN		125			
		CONSTRUCTION				1,000	
		TOTAL FUNDING	HHL	125C		1,000C	
23. HAWAIIAN CENTER FACILITY							
FEASIBILITY AND SITE STUDY FOR A PROPOSED HAWAIIAN CENTER TO ACCOMMODATE THE DHHL AND OTHER AGENCIES SERVICING HAWAIIANS.							
		PLANS		150			
		TOTAL FUNDING	HHL	150C			C
G. FORMAL EDUCATION							
EDN105 - REGULAR INSTRUCTION PROGRAM							
1. 001 RELOCATE OR CONSTRUCT PORTABLE CLASSROOMS							
RELOCATION OR CONSTRUCTION OF PORTABLES EACH SCHOOL YEAR TO MEET ENROLLMENT SHIFTS AMONG							



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		SCHOOLS, PROGRAM DEMANDS, UN-FORESEEN EMERGENCIES, AND TO PROVIDE TEMPORARY FACILITIES WHILE NEW SCHOOLS ARE BEING PLANNED AND/OR UNDER CONSTRUCTION. THESE FUNDS ARE ALSO FOR SECONDARY SCHOOLS.			
		DESIGN		500	500
		CONSTRUCTION		4,425	4,450
		EQUIPMENT		50	50
		TOTAL FUNDING	AGS	A	5,000A
			AGS	4,975C	C
2.	002	MINOR IMPROVEMENTS			
		MINOR ADDITIONS, RENOVATIONS AND IMPROVEMENT TO BUILDINGS AND SCHOOL SITES, INCLUDING ELEMENTARY SPECIAL CLASSROOMS (MUSIC, ART AND SCIENCE).			
		DESIGN		70	
		CONSTRUCTION		225	
		EQUIPMENT		5	
		TOTAL FUNDING	AGS	300C	C
3.	003	LUMP SUM FOR MASTER PLANS AND SITE STUDIES, MINOR LAND ACQUISITIONS			
		ACQUISITION OF SMALL PARCELS, MASTER PLANNING, PRE-PLANNED ACQUISITION STUDIES, SITE SELECTION AND FEASIBILITY STUDIES TO MEET FUTURE AND UNFORESEEN NEEDS. CIP ASSISTANCE FROM DAGS IN PROVIDING COST ESTIMATES FOR BUDGETING AND EXPENDITURE PLANNING.			
		PLANS		145	
		LAND		5	
		TOTAL FUNDING	AGS	150C	C
4.	008	LUMP SUM - FIRE PROTECTION SYSTEMS; FIRE ALARM SYSTEMS			
		FIRE PROTECTION SYSTEMS TO MEET WATER SYSTEM STANDARDS.			
		DESIGN		50	
		CONSTRUCTION		250	
		TOTAL FUNDING	AGS	300C	C
5.	009	LUMP SUM - CORRECTION TO SOUND PROBLEM			
		TO PROVIDE CORRECTIVE MEASURES ON EXCESSIVE EXTERIOR NOISE AND VENTILATION PROBLEMS THAT AFFECT CLASSROOMS.			
		DESIGN		50	
		CONSTRUCTION		450	
		TOTAL FUNDING	AGS	500C	C

ACT 216

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
6.	010	LUMP SUM-CORRECTION TO ASBESTOS PROBLEMS					
		IMPROVEMENTS TO EXISTING SCHOOLS -CORRECTIONS AND RENOVATIONS TO ALL SCHOOL BUILDINGS WITH IDENTIFIED HEALTH AND SAFETY HAZARDS.					
			PLANS		40		
			DESIGN		20		
			CONSTRUCTION		860		
			TOTAL FUNDING	AGS	920C		C
7.	140006	MCKINLEY HIGH					
		DESIGN AND CONSTRUCT RENOVATION OF BUILDING E.					
			CONSTRUCTION		2,100		
			EQUIPMENT		10		
			TOTAL FUNDING	AGS	2,110C		C
8.	MOANALUA	HIGH					
		DESIGN AND CONSTRUCT ADMINISTRATION BUILDING.					
			DESIGN		15		
			CONSTRUCTION		1,200		
			EQUIPMENT		15		
			TOTAL FUNDING	AGS	1,230C		C
9.	AIEA	HIGH SCHOOL					
		FUNDS ARE PROVIDED FOR LAND ACQUISITION, DESIGN, AND CONSTRUCTION OF GYMNASIUM, ROADWAY AND PARKING.					
			LAND		1		
			DESIGN		240		
			CONSTRUCTION		3,649		
			TOTAL FUNDING	AGS	3,890C		C
10.	MILILANI	UKA ELEMENTARY					
		DESIGN TEN-CLASSROOM BUILDING.					
			DESIGN		150		
			TOTAL FUNDING	AGS	150C		C
11.	WAIMALU	ELEMENTARY SCHOOL.					
		DESIGN , CONSTRUCT AND EQUIP ADMINISTRATION BUILDING.					
			DESIGN		65		
			CONSTRUCTION		690		
			EQUIPMENT		15		
			TOTAL FUNDING	AGS	770C		C
12.	237006	WHEELER ELEMENTARY SCHOOL					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN AND CONSTRUCT CLASS-ROOMS, GROUND AND SITE IMPROVEMENTS.					
		CONSTRUCTION EQUIPMENT		1,300			
		TOTAL FUNDING	AGS	1,325C			C
13.	287001	HOAEAE ELEMENTARY					
		DESIGN AND CONSTRUCT 1ST INCREMENT; CLASSROOMS, PLAYFIELD, PARKING; GROUND AND SITE IMPROVEMENTS; RENOVATE CLASSROOMS INTO TEMPORARY SUPPORT FACILITIES.					
		DESIGN		220			
		CONSTRUCTION EQUIPMENT				3,900	
		TOTAL FUNDING	AGS	A		60	
			AGS	220C		3,960A	C
14.	287002	HOAEAE ELEMENTARY					
		DESIGN AND CONSTRUCT CLASS-ROOMS; GROUND AND SITE IMPROVEMENTS.					
		DESIGN				90	
		TOTAL FUNDING	AGS		C	90C	
15.	303001	EWA ELEMENTARY SCHOOL					
		SEWER AND WATER SYSTEM CONNECTIONS, GROUND AND SITE IMPROVEMENTS.					
		DESIGN		40			
		CONSTRUCTION				325	
		TOTAL FUNDING	AGS	40C		325C	
16.	325002	WAIANAE HIGH SCHOOL					
		SEWER ASSESSMENT, CONNECTION OF CESSPOOL SERVICED BUILDINGS TO SEWER TRUNK LINES, GROUND AND SITE IMPROVEMENTS.					
		DESIGN		30			
		CONSTRUCTION				300	
		TOTAL FUNDING	AGS	30C		300C	
17.	325003	WAIANAE HIGH SCHOOL					
		DESIGN AND CONSTRUCT CLASS-ROOMS, GROUND AND SITE IMPROVEMENTS.					
		CONSTRUCTION EQUIPMENT		2,900			
		TOTAL FUNDING	AGS	35			
				2,935C			C
18.	330005	WAIPAHU HIGH SCHOOL					

ACT 216

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN AND CONSTRUCT CLASS-ROOMS, GROUND AND SITE IMPROVEMENTS.					
		CONSTRUCTION EQUIPMENT		2,000			
		TOTAL FUNDING	AGS	30			
				2,030C			C
19.	342004	WAIANAE III ELEMENTARY					
		DESIGN AND CONSTRUCT CLASS-ROOMS, EQUIPMENT AND APPURTENANCES, GROUND AND SITE IMPROVEMENTS.					
		DESIGN					90
		TOTAL FUNDING	AGS				90C
20.		CASTLE HIGH SCHOOL					
		DESIGN AND CONSTRUCTION OF P.E. ATHLETIC LOCKER/SHOWER FACILITY TO REPLACE EXISTING STANDARD FACILITY.					
		DESIGN		136			
		CONSTRUCTION EQUIPMENT					2,128
		TOTAL FUNDING	AGS				10
			AGS		A		1,500A
				136C			638C
21.		KALANI HIGH SCHOOL.					
		DESIGN AND CONSTRUCTION FOR EXPANSION OF GYMNASIUM.					
		DESIGN		50			
		CONSTRUCTION		250			
		TOTAL FUNDING	AGS	300C			
22.	409001	SUNSET BEACH ELEMENTARY					
		DESIGN AND CONSTRUCT CLASS-ROOMS OR CAFETORIUM/LIBRARY EQUIPMENT AND APPURTENANCES: GROUND AND SITE IMPROVEMENTS.					
		DESIGN		90			
		CONSTRUCTION EQUIPMENT					1,400
		TOTAL FUNDING	AGS				25
			AGS		A		1,425A
				90C			C
23.	507005	HONOKAA HIGH					
		DESIGN AND CONSTRUCT CLASS-ROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN		80			
		CONSTRUCTION EQUIPMENT					1,000
		TOTAL FUNDING	AGS				20
			AGS		A		1,020A
				80C			C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
24.	513001	KEAAU ELEM. AND INTERMEDIATE SCHOOL PUNA, HAWAII.					
		DESIGN AND CONSTRUCT CLASS-ROOMS, WORKROOM, TOILETS, COVERED WALKWAYS, EQUIPMENT AND APPURTENANCES.					
		DESIGN		80			
		CONSTRUCTION				1,000	
		EQUIPMENT				20	
		TOTAL FUNDING	AGS		A	1,020A	
			AGS	80C			C
25.	517001	KONAWAENA ELEMENTARY (NEW) MASTER PLAN REPORT.					
		PLANS		80			
		TOTAL FUNDING	AGS	80C			C
26.	517002	KONAWAENA ELEMENTARY (NEW) LAND ACQUISITION.					
		LAND		600			
		TOTAL FUNDING	AGS	600C			C
27.	517003	KONAWAENA ELEMENTARY (NEW)					
		DESIGN AND CONSTRUCT FIRST IN-CREMENT; CLASSROOMS, PLAYFIELD, PARKING; RELOCATE PORTABLES; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN				150	
		TOTAL FUNDING	AGS		C	150C	
28.	523012	PAHOA HIGH AND ELEMENTARY SCHOOL					
		DESIGN AND CONSTRUCT CLASS-ROOMS, COVERED WALKWAY, EQUIPMENT AND APPURTENANCES. DEMOLISH OLD STRUCTURE.					
		CONSTRUCTION		2,200			
		EQUIPMENT		30			
		TOTAL FUNDING	AGS	2,230C			C
29.	526001	WAIAKEA INTERMEDIATE SCHOOL					
		DESIGN AND CONSTRUCT CLASS-ROOMS, GROUND AND SITE IMPROVEMENTS.					
		CONSTRUCTION		1,900			
		EQUIPMENT		30			
		TOTAL FUNDING	AGS	1,930C			C
30.	528002	WAIMA ELEMENTARY & INTERMEDIATE					
		DESIGN AND CONSTRUCT CLASS-ROOMS, COVERED WALKWAY, AND EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION		1,000			
		EQUIPMENT		15			
		TOTAL FUNDING	AGS	1,015C			C

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
31.	534001	PAHOA ELEMENTARY (NEW)					
		MASTER PLAN REPORT. PLANS			80		
		TOTAL FUNDING	AGS		80C		C
32.	534002	PAHOA ELEMENTARY (NEW)					
		LAND ACQUISITION. LAND			600		
		TOTAL FUNDING	AGS		600C		C
33.	534003	PAHOA ELEMENTARY (NEW)					
		DESIGN AND CONSTRUCT FIRST IN- CREMENT; CLASSROOMS, PLAYFIELD, PARKING; RELOCATE PORTABLES; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS; AND COVERED WALKWAYS.					
		DESIGN					150
		TOTAL FUNDING	AGS		C		150C
34.	603002	IAO SCHOOL, MAUI					
		DESIGN AND CONSTRUCT CLASS- ROOMS; GROUND AND SITE IM- PROVEMENTS.					
		DESIGN			95		
		CONSTRUCTION					1,500
		EQUIPMENT					25
		TOTAL FUNDING	AGS		A		1,525A
			AGS		95C		C
35.	608012	KIHEI SCHOOL					
		DESIGN AND CONSTRUCT CLASS- ROOMS, GROUND AND SITE IM- PROVEMENTS.					
		DESIGN			50		
		CONSTRUCTION					600
		EQUIPMENT					10
		TOTAL FUNDING	AGS		50C		610C
36.	618001	MOLOKAI HIGH & INTER SCHOOL, MOLOKAI					
		DESIGN AND CONSTRUCT INDUSTRI- AL EDUCATION AND AGRICULTURE FACILITIES; GROUND AND SITE IM- PROVEMENTS.					
		DESIGN			10		
		CONSTRUCTION			1,800		
		EQUIPMENT			12		
		TOTAL FUNDING	AGS		1,822C		C
37.	622010	WAIHEE ELEMENTARY					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN AND CONSTRUCT CLASS-ROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN		90			
		CONSTRUCTION				1,400	
		EQUIPMENT				25	
		TOTAL FUNDING	AGS		A	1,425A	
			AGS	90C			C
38.	625006	KALAMA INTERMEDIATE					
		DESIGN AND CONSTRUCT CLASS-ROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN		100			
		CONSTRUCTION				1,900	
		EQUIPMENT				30	
		TOTAL FUNDING	AGS		A	1,930A	
			AGS	100C			C
39.	NEW MAUI	INTERMEDIATE					
		LAND ACQUISITION.					
		LAND		635			
		TOTAL FUNDING	AGS	635C			C
40.	626003	NEW MAUI INTERMEDIATE SCHOOL					
		DESIGN AND CONSTRUCT FIRST INCREMENT; CLASSROOMS, PARKING, PLAYCOURT, PLAYFIELD, GROUND AND SITE IMPROVEMENTS.					
		CONSTRUCTION		5,900			
		EQUIPMENT		85			
		TOTAL FUNDING	AGS	5,985C			C
41.	KAUAI SCHOOL DISTRICT						
		DESIGN AND CONSTRUCTION FOR REMOVAL OF FRIABLE ASBESTOS MATERIALS FROM KAUAI DISTRICT SCHOOLS.					
		DESIGN		40			
		CONSTRUCTION		210			
		TOTAL FUNDING	AGS	250C			C
42.	715001	HANAMAULU/WAILUA ELEMENTARY					
		MASTER PLAN REPORT.					
		PLANS		80			
		TOTAL FUNDING	AGS	80C			C
43.	715002	HANAMAULU/WAILUA ELEMENTARY					
		LAND ACQUISITION.					
		LAND		600			
		TOTAL FUNDING	AGS	600C			C

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
<b>44. 715003 HANAMAULU/WAILUA ELEMENTARY</b>							
DESIGN AND CONSTRUCT FIRST INCREMENT; CLASSROOMS, PLAYFIELD, PARKING, RENOVATE CLASSROOMS FOR SUPPORT NEEDS; EQUIPMENT AND APPURTENANCE; GROUND AND SITE IMPROVEMENTS.							
DESIGN							
TOTAL FUNDING							
AGS							
C							
220							
220C							
<b>45. KAUNAKAKAI ELEMENTARY SCHOOL, MOLOKAI</b>							
DESIGN AND CONSTRUCTION OF NEW CLASSROOM BUILDING (4 ROOMS), PARKING AREA AND OTHER IMPROVEMENTS.							
DESIGN							
CONSTRUCTION							
TOTAL FUNDING							
AGS							
10							
790							
800C							
C							
<b>EDN107 - SPECIAL EDUCATION</b>							
<b>46. 005 REMOVAL OF ARCHITECTURAL BARRIERS AND SPECIAL EDUCATION CLASSROOM IMPROVEMENTS</b>							
PROVIDE RAMPS, ELEVATORS, AND OTHER CORRECTIVE MEASURES FOR ACCESSIBILITY OF SCHOOL FACILITIES TO HANDICAPPED PERSONS.							
PLANS							
DESIGN							
CONSTRUCTION							
TOTAL FUNDING							
AGS							
AGS							
200							
2,300							
7,500							
A							
10,000C							
1,000							
8,000							
9,000A							
C							
<b>EDN204 - INSTRUCTIONAL MEDIA</b>							
<b>47. KANOELANI ELEMENTARY</b>							
DESIGN AND CONSTRUCTION OF LIBRARY.							
DESIGN							
TOTAL FUNDING							
AGS							
C							
80							
80C							
<b>48. WAIPAHU INTERMEDIATE</b>							
DESIGN AND CONSTRUCT LIBRARY.							
DESIGN							
CONSTRUCTION							
EQUIPMENT							
TOTAL FUNDING							
AGS							
100							
1,200							
20							
1,220C							
<b>49. KALIHI ELEMENTARY SCHOOL.</b>							
DESIGN AND CONSTRUCTION FOR LIBRARY EXPANSION.							
DESIGN							
50							



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		CONSTRUCTION			100		
		TOTAL FUNDING	AGS		150C		C
50.		KALIHI UKA ELEMENTARY SCHOOL, OAHU					
		LIBRARY AIR CONDITIONING.					
		DESIGN			6		
		CONSTRUCTION			53		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		60C		C
<b>EDN304 - DISTRICT ADMINISTRATION</b>							
51.		MAUI DOE DISTRICT ADMINISTRATION BUILDING, MAUI					
		PLANS AND DESIGN FOR A DOE DISTRICT ADMINISTRATION BUILDING.					
		PLANS			50		
		DESIGN			250		
		TOTAL FUNDING	AGS		300C		C
<b>EDN407 - PUBLIC LIBRARIES</b>							
52.		085-11 PUBLIC LIBRARIES					
		REMOVAL OF ASBESTOS MATERIALS IN PUBLIC LIBRARIES.					
		DESIGN			25		
		CONSTRUCTION			575		
		TOTAL FUNDING	AGS		600C		C
53.		800-01 PUBLIC LIBRARIES ARCHITECTURAL BARRIERS					
		REMOVAL OF ARCHITECTURAL BARRIERS FOR HANDICAPPED IN PUBLIC LIBRARIES.					
		PLANS			350		
		DESIGN					700
		TOTAL FUNDING	AGS		A		700A
			AGS		350C		C
54.		SALT LAKE/MOANALUA LIBRARY					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW LIBRARY.					
		PLANS			20		
		LAND			10		
		DESIGN			200		
		CONSTRUCTION			1,890		
		EQUIPMENT			100		
		TOTAL FUNDING	AGS		2,220C		C
55.		AINA HAINA LIBRARY					
		FUNDS FOR CARPETING AFTER ASBESTOS REMOVAL.					
		EQUIPMENT			30		

ACT 216

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		TOTAL FUNDING	AGS		30C		C
56.		HAWAII STATE PUBLIC LIBRARY EXPANSION: RENOVATION AND EXPANSION					
		DESIGN AND CONSTRUCTION FOR RENOVATION AND EXPANSION OF HAWAII STATE PUBLIC LIBRARY.					
		DESIGN			700		
		CONSTRUCTION			7,700		
		TOTAL FUNDING	AGS		8,400C		C
57.		WAIPAHAU LIBRARY					
		PLANS AND DESIGN FOR REPLACE- MENT.					
		PLANS DESIGN			60		
		TOTAL FUNDING	AGS		60C		154 154C
58.		NEW KIHEI LIBRARY					
		DESIGN AND CONSTRUCTION FOR NEW LIBRARY.					
		DESIGN			100		
		TOTAL FUNDING	AGS		100C		C
UOH101 - INSTRUCTION - UOH, MANOA							
59.		GEORGE HALL RENOVATIONS					
		DESIGN, CONSTRUCTION AND EQUIP- MENT TO COMPLETE RENOVATION WORK.					
		DESIGN			27		
		CONSTRUCTION			50		
		EQUIPMENT			221		
		TOTAL FUNDING	AGS		298C		C
60.		BILGER HALL RENOVATIONS					
		DESIGN, CONSTRUCTION AND EQUIP- MENT TO COMPLETE RENOVATION WORK.					
		DESIGN			67		
		CONSTRUCTION			1		
		EQUIPMENT			964		
		TOTAL FUNDING	AGS		1,032C		C
61.		SCHOOL OF ARCHITECTURE					
		DESIGN, CONSTRUCTION AND EQUIP- MENT TO COMPLETE RENOVATION WORK.					
		DESIGN			25		
		CONSTRUCTION			1		
		EQUIPMENT			320		
		TOTAL FUNDING	AGS		346C		C
62.		CENTER FOR HAWAIIAN STUDIES					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		FUNDING INCLUDES PLANS AND DESIGN TO ESTABLISH A NEW FACILITY TO HOUSE THE HAWAIIAN STUDIES PROGRAM.					
		PLANS		50			
		DESIGN		162			
		TOTAL FUNDING	AGS	212C			C
63.		HAWAII INTERACTIVE TELEVISION SYSTEM, STUDIO CONVERSION					
		CONVERSION OF EXISTING SPACE TO TELECASTING STUDIO.					
		DESIGN				25	
		CONSTRUCTION				100	
		EQUIPMENT				15	
		TOTAL FUNDING	AGS		C	140C	
64.		PACIFIC OCEAN SCIENCE AND TECHNOLOGY CENTER					
		FUNDING INCLUDES DESIGN, CONSTRUCTION AND EQUIPMENT OF INSTRUCTIONAL AND RESEARCH FACILITIES TO INCLUDE CLASSROOMS, LABORATORIES, SEMINAR AND CONFERENCE ROOMS, OFFICES, RESOURCE MATERIALS AND EXHIBITION SPACES, AND OTHER RELATED AREAS. ALSO, RENOVATION OF FACILITIES FOR PROGRAMS AFFECTED BY DEMOLITION AND SITE PREPARATION.					
		DESIGN		1,659			
		TOTAL FUNDING	AGS	1,659C			C
65.		AGRICULTURAL SCIENCE FACILITIES, PHASE III					
		DESIGN OF NEW REPLACEMENT FACILITY FOR COLLEGE OF TROPICAL AGRICULTURE AND HUMAN RESOURCES.					
		DESIGN		743			
		TOTAL FUNDING	AGS	743C			C
66.		ADDITIONAL FACILITIES FOR THE ROTC PROGRAM.					
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR NEW FACILITIES.					
		DESIGN		15			
		CONSTRUCTION		267			
		EQUIPMENT		18			
		TOTAL FUNDING	AGS	300C			C
67.		KENNEDY THEATER ADDITION					
		DESIGN, CONSTRUCTION, AND EQUIPPING AN ADDITION TO KENNEDY THEATER.					

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN		684			
		TOTAL FUNDING	AGS	684C			C
68.		CRAWFORD HALL RENOVATIONS					
		RENOVATIONS TO MODERNIZE OLD, DILAPIDATED AND OBSOLETE FACILITIES.					
		DESIGN					265
		TOTAL FUNDING	AGS		C		265C
		UOH102 - ORGANIZED RESEARCH - UOH, MANOA					
69.	149	UHM, MAUNA KEA OBSERVATORY, POWER-LINE & COMMUNICATIONS SYSTEMS, ADDITIONAL WORK.					
		DESIGN AND CONSTRUCTION OF A PERMANENT ELECTRICAL TRANSMISSION AND DISTRIBUTION SYSTEM FROM THE SADDLE ROAD TO THE SUMMIT AT MAUNA KEA, INCLUDING SUBSTATIONS AND SWITCHGEAR. ALSO, DESIGN AND CONSTRUCTION OF COMMUNICATIONS SYSTEMS FROM HALE POHAKU TO THE SUMMIT.					
		DESIGN		55			
		CONSTRUCTION		616			
		TOTAL FUNDING	AGS	671C			C
70.	159	UHM, MAUNA KEA OBSERVATORY ACCESS ROAD PHASE II					
		ACCESS ROAD IMPROVEMENTS FROM HALE POHAKU TO THE SUMMIT, INCLUDING PAVEMENT, DRAINAGE SYSTEM, STABILIZATION OF EMBANKMENT AND SHOULDERS, AND INSTALLATION OF GUARDRAILS AND REFLECTORS. THE RECOVERY OF FUNDS FROM OTHERS FOR REIMBURSEMENT OF INFRASTRUCTURE EXPENSES SHALL BE DEPOSITED IN THE STATE GEN FUND. (FUNDS TO BE EXPENDED BY THE DEPT. OF TRANSPORTATION)					
		DESIGN		80			
		CONSTRUCTION		8,085			
		TOTAL FUNDING	AGS	8,165C			C
71.		EDUCATION AND INFORMATION CTR, MAUNA KEA MID LEVEL STATION, INSTITUTE FOR ASTRON					
		PLANS FOR EDUCATION AND INFORMATION CENTER AT MAUNA KEA.					
		PLANS					40
		TOTAL FUNDING	AGS		C		40C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
72.		UHH, KOMOHANA RESEARCH CENTER - FOURTH WING.					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A FOURTH WING, RESEARCH FACILITIES, GREEN HOUSES FOR KOMOHANA RESEARCH CENTER.					
		DESIGN		279			
		TOTAL FUNDING	AGS	279C			C
73.		ASTRONOMY COMPLEX, RENOVATIONS AND ADDITIONS					
		DESIGN, CONSTRUCTION AND EQUIPING OF RENOVATIONS AND ADDITIONS TO THE ASTRONOMY COMPLEX.					
		DESIGN				40	
		CONSTRUCTION				225	
		EQUIPMENT				20	
		TOTAL FUNDING	AGS		C	285C	
UOH105 - STUDENT SERVICES - UOH, MANOA							
74.		STUDENT SERVICES CENTER					
		FUNDING INCLUDES DESIGN OF A NEW BUILDING TO CENTRALIZE STUDENT SERVICES UNITS WHICH ARE PRESENTLY SCATTERED IN DIFFERENT PARTS OF THE CAMPUS.					
		DESIGN		250			
		TOTAL FUNDING	AGS	250C			C
UOH106 - INSTITUTIONAL SUPPORT - UOH, MANOA							
75.		277 UHM, REMOVAL, ENCAPSULATION & ENCLOSURE OF ASBESTOS MATERIALS					
		RENOVATIONS TO UNIVERSITY BUILDINGS WITH IDENTIFIED ASBESTOS HAZARDS.					
		DESIGN		315			
		CONSTRUCTION				2,455	
		TOTAL FUNDING	AGS		A	2,455A	
			AGS	315C			C
76.		HAMILTON LIBRARY, REMOVAL OF ASBESTOS					
		FUNDING INCLUDES CONSTRUCTION FOR THE REMOVAL OR ENCAPSULATION OF ASBESTOS IN HAMILTON LIBRARY.					
		DESIGN		65			
		CONSTRUCTION		660			
		TOTAL FUNDING	AGS	725C			C
77.		HAZARDOUS WASTE FACILITY - ACCESS ROAD AND RELATED IMPROVEMENTS					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN AND CONSTRUCTION OF HAZARDOUS WASTE FACILITY INCLUDING ROADWAY IMPROVEMENTS.					
		DESIGN		45			
		CONSTRUCTION		435			
		TOTAL FUNDING	AGS	480C			C
78.		UHM, PARKING STRUCTURE PHASE II					
		DESIGN OF SECOND PARKING STRUCTURE ON MAKAI-MANOA CAMPUS.					
		DESIGN				1,052	
		TOTAL FUNDING	AGS		A	1,052A	
79.		PARKING STRUCTURE, KENNEDY THEATRE					
		DESIGN AND CONSTRUCTION OF A PARKING STRUCTURE IN THE PRESENT KENNEDY PARKING LOT.					
		DESIGN				249	
		TOTAL FUNDING	AGS		C	249C	
80.		PARKING STRUCTURE, SPALDING HALL					
		DESIGN AND CONSTRUCTION OF A PARKING STRUCTURE IN THE PRESENT SPALDING HALL PARKING LOT. (NOT LESS THAN 50% OF PARKING SPACES SHALL BE SET ASIDE FOR STUDENT USE).					
		DESIGN		124			
		CONSTRUCTION				1,368	
		TOTAL FUNDING	AGS	124C		1,368C	
81.	279	UHM, REPLACEMENT OF TRANSFORMERS WITH PCB					
		REPLACEMENT OF TRANSFORMERS WITH PCB A RECOGNIZED CARCINOGEN, TO MEET EPA REGULATIONS.					
		DESIGN		45		45	
		CONSTRUCTION		450		450	
		TOTAL FUNDING	AGS		A	495A	
			AGS	495C			C
82.	280	UHM, MODIFICATIONS TO EXISTING AND/OR ADDITION OF NEW FACILITIES TO MEET HOSHA					
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR MODIFICATIONS TO EXISTING FACILITIES AND/OR CONSTRUCTION OF NEW FACILITIES TO MEET HOSHA AND OTHER CODE REQUIREMENTS.					
		DESIGN		77		58	
		CONSTRUCTION		570		364	
		TOTAL FUNDING	AGS		A	422A	
			AGS	647C			C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
<b>UOH211 - INSTRUCTION - UOH, HILO</b>							
83.		GENERAL INSTRUCTION FACILITIES WEST HAWAII					
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR NEW INSTRUCTIONAL FACILITIES AT WEST HAWAII CAMPUS, KAILUA, KONA.					
		DESIGN			133		
		TOTAL FUNDING	AGS		133C		C
84.		UHH- HAWAII COMMUNITY COLLEGE RELOCATION, PHASE IIA					
		DESIGN, CONSTRUCTION, FURNITURE AND EQUIPMENT FOR THE INCREMENTAL RELOCATION OF HAWAII COMMUNITY COLLEGE PROGRAMS TO THE UNIVERSITY OF HAWAII AT HILO CAMPUS.					
		DESIGN				32	
		CONSTRUCTION				1	
		EQUIPMENT				350	
		TOTAL FUNDING	AGS			383C	
<b>UOH215 - STUDENT SERVICES - UOH, HILO</b>							
85.		STUDENT HOUSING FACILITIES					
		CONSTRUCT STUDENT HOUSING UNITS.					
		CONSTRUCTION				8,000	
		TOTAL FUNDING	AGS		A	8,000A	
<b>UOH216 - INSTITUTIONAL SUPPORT - UOH, HILO</b>							
86.	441	UHH, REMOVAL, ENCAPSULATION AND ENCLOSURE OF ASBESTOS MATERIALS					
		DESIGN AND CONSTRUCTION FOR THE REMOVAL, ENCAPSULATION OR ENCLOSURE OF ASBESTOS MATERIAL IN THE AUDITORIUM-THEATER.					
		DESIGN			10		
		CONSTRUCTION				1,272	
		TOTAL FUNDING	AGS		A	1,272A	
			AGS		10C		C
<b>UOH301 - INSTRUCTION - HONOLULU COMMUNITY COLLEGE</b>							
87.		HCC, RENOVATION OF BUILDING 803					
		RENOVATION OF BUILDING 803 TO MEET PROGRAM REQUIREMENTS AND PROVIDE FOR EXPANSION OF PROGRAMS.					
		CONSTRUCTION			600		
		TOTAL FUNDING	AGS		600C		C

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
<b>UOH311 - INSTRUCTION -KAPIOLANI COMMUNITY COLLEGE</b>							
88.	B-102	KAPIOLANI CC, DIAMOND HEAD - NEW CAMPUS DEV.					
		DESIGN, CONSTRUCTION, FURNITURE AND EQUIPMENT FOR NEW FACILITIES INCLUDING SITE WORK, UTILITIES, ROADWAYS AND BUILDINGS AND OFFSITE ROADWAY IMPROVEMENTS.					
		ACT 345, S.L.H. 1986, SEC. 6, ITEM 125, FUNDS MAY BE USED FOR THIS PROJECT.					
		DESIGN					637
		CONSTRUCTION		12,274			5,071
		EQUIPMENT		1			1
		TOTAL FUNDING	AGS		A		5,709A
			AGS	12,275C			C
89.		KAPIOLANI CC, DIAMOND HEAD - NEW CAMPUS DEVELOPMENT					
		EQUIPMENT FOR FOOD SERVICE BUILDING (G-2).					
		EQUIPMENT		700			
		TOTAL FUNDING	AGS	700A			A
90.		KAPIOLANI CC, DIAMOND HEAD - NEW CAMPUS DEVELOPMENT					
		EQUIPMENT FOR MEDIA CENTER BUILDING (F-2).					
		EQUIPMENT		270			
		TOTAL FUNDING	AGS	270C			C
<b>UOH505 - INSTITUTIONAL SUPPORT-MAUI COMMUNITY COLLEGE</b>							
91.		MAUI COMMUNITY COLLEGE - MASTER PLAN UPDATE					
		PLANS TO UPDATE MCC MASTER PLAN AND AN ENVIRONMENTAL IMPACT STUDY.					
		PLANS					200
		TOTAL FUNDING	AGS		C		200C
<b>UOH605 - INSTITUTIONAL SUPPORT - KAUAI CC</b>							
92.		KAUAI COMMUNITY THEATRE					
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR A THEATRE-LEARNING CENTER FACILITY AT KAUAI COMMUNITY COLLEGE, COMMUNITY THEATRE.					
		DESIGN		331			
		CONSTRUCTION					4,047



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		EQUIPMENT					2
		TOTAL FUNDING	AGS	331C		4,049C	
<b>UOH906 - COMMUNITY COLLEGE SYSTEMWIDE SUPPORT</b>							
93.	C-01	COMMUNITY COLLEGES SUPPORT - REPLACEMENT OF PCB TRANSFORMERS.					
		DESIGN AND CONSTRUCTION TO REMOVE AND DISPOSE OF ELECTRICAL TRANSFORMERS AND OTHER EQUIPMENT CONTAINING PCB AND REPLACING WITH NON-PCB EQUIPMENT.					
		DESIGN			31		
		CONSTRUCTION			205		
		TOTAL FUNDING	AGS	236C			C
94.	C-03	COMMUNITY COLLEGES SUPPORT - ASBESTOS REMOVAL.					
		DESIGN AND CONSTRUCTION TO RENOVATE COMMUNITY COLLEGE BUILDINGS TO REMOVE, ENCAPSULATE AND/OR ENCLOSE ASBESTOS MATERIALS.					
		DESIGN			25		
		CONSTRUCTION			125		
		TOTAL FUNDING	AGS	150C			C
<b>H. CULTURE AND RECREATION</b>							
<b>CCA701 - HAWAII PUBLIC BROADCASTING</b>							
1.	HAWAII PUBLIC BROADCASTING TOWER						
		CONSTRUCTION TO REPLACE THE KHET-TV TRANSMITTER TOWER ON MT. KAHILI, KAUAI.					
		CONSTRUCTION			65		
		TOTAL FUNDING	CCA	65C			C
<b>LNR804 - FOREST RECREATION</b>							
2.	D07 FOREST VIEWPOINT DEVELOPMENT AND RESTSTOP OAHU						
		DEVELOP VIEWPOINTS AND RESTSTOP FOR HIKERS. THIS WOULD INVOLVE MINOR EXCAVATION ALONG ESTABLISHED TRAILS AND CONSTRUCTION OF A BENCH APPROXIMATELY EIGHTEEN INCHES HIGH AND FIVE FEET WIDE USING TELEPHONE-TYPE POLES AS THE LEGS AND 2X8 REDWOOD LUMBER OR EQUIVALENT AS THE SEAT.					
		PLANS			10		
		DESIGN			4		
		CONSTRUCTION					14

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		TOTAL FUNDING	LNR		14C		14C
3.	D20	FOREST FACILITY - WATERLESS COMPOSTING TOILET SYSTEM MOKULEIA, OAHU					
		CONSTRUCT A CLIVUS MULTRUM, A WATERLESS COMPOSTING TOILET SYSTEM AT THE MOKULEIA FOREST RESERVE CAMPGROUND.					
		CONSTRUCTION			18		
		TOTAL FUNDING	LNR		18C		C
4.	D51	MAUNA KEA GAME MANAGEMENT AREA ACCESS ROAD					
		INSTALLATION OF A ROCK BASE APPROXIMATELY 12 INCHES THICK AND 10 FEET WIDE ON APPROXIMATELY 4.5 MILES OF EXISTING DIRT ACCESS ROAD FROM THE SADDLE ROAD TO THE PUU LAU SECTION OF THE MAUNA KEA GAME MANAGEMENT AREA TO PROVIDE A PERMANENT ROAD BASE CAPABLE OF ACCOMMODATING VEHICULAR TRAFFIC FOR MANAGEMENT, HUNTING, AND OTHER RECREATIONAL PURPOSES.					
		PLANS			5		
		DESIGN			10		
		CONSTRUCTION			320		
		TOTAL FUNDING	LNR		335C		C
5.	D-03	FOREST SHELTERS					
		DEVELOP SELECTED SITES TO PROVIDE A PLACE FOR WILDERNESS PICKNICKING, RESTING, AND CAMPING. MAY INCLUDE ANY OF THE FOLLOWING: TRAIL SHELTER UNITS WITH TABLE OR COMFORT STATION ETC.					
		PLANS			4		
		DESIGN			2		
		CONSTRUCTION			30		
		TOTAL FUNDING	LNR		36C		C
6.	D02K	FOREST TRAILS, KAUAI					
		TRAILS ARE CONSTRUCTED ON AN INCREMENTAL BASIS. TRAILS ARE AT LEAST THREE FEET WIDE AND CLEARED FOR EASY ACCESS. TRAILS PROVIDE: REMOTE OUTDOOR RECREATION OPPORTUNITIES, ACCESS FOR CONTROL OF FIRE AND PESTS, ROUTE FOR RESCUE OPERATIONS, ETC.					
		PLANS			6		
		DESIGN			2		
		CONSTRUCTION			70		
		TOTAL FUNDING	LNR		78C		C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F

7. D020 FOREST TRAILS, OAHU

TRAILS ARE CONSTRUCTED ON AN INCREMENTAL BASIS. TRAILS ARE AT LEAST TWO FEET WIDE AND CLEARED FOR EASY ACCESS. TRAILS PROVIDE: REMOTE OUTDOOR RECREATION OPPORTUNITIES, ACCESS FOR CONTROL OF FIRE AND PESTS, AND ROUTE FOR RESCUE OPERATIONS.

DESIGN				5		
CONSTRUCTION						40
TOTAL FUNDING		LNR		5C		40C

8. D040 FOREST FENCE-MANOFA FALLS, OAHU

THIS IS A CHAIN LINK FENCE TO BE CONSTRUCTED IN THE HONOLULU WATERSHED FOREST RESERVE. THIS FENCE WILL ACT AS A DETERRENT TO KEEP RECREATIONALISTS FROM CLIMBING ABOVE MANOFA FALLS AND INTO THE CLOSED WATERSHED AREA.

PLANS				6		
DESIGN				6		
CONSTRUCTION						30
TOTAL FUNDING		LNR		12C		30C

LNR806 - HERITAGE & RECREATION PARKS

9. F08 NUU BAY, MAUI

ACQUISITION AND DEVELOPMENT OF THIS BAY. THE SITE IS OF ARCHAEOLOGICAL VALUE, OFFERS LIMITED OPPORTUNITIES FOR WATER RECREATION ACTIVITIES, AND IS THE LAST KNOWN RECREATION RESOURCE ON THE EXISTING ROAD FROM KAUPU TO ULUPALAKUA.

PLANS						50
LAND						20
TOTAL FUNDING		LNR			C	70C

10. F09 AHUKINI PIER, KAUAI

DESIGN AND CONSTRUCTION OF RESTROOM, LIGHTING AND ASSOCIATED UTILITIES AS NEEDED.

CONSTRUCTION				300		
TOTAL FUNDING		LNR		300C		C

11. F11 IOLANI PALACE RESTORATION

LANDSCAPING OF PALACE GROUNDS AND REMODELING OF KANAINA BUILDING AS AN OFFICE AND ORIENTATION BUILDING. ESTABLISH A CARRIAGE ROAD REPLACING EXISTING

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		ROAD/PARKING AREAS. RESTORATION OF PALACE BASEMENT AND BARRACKS AND MISCELLANEOUS IMPROVEMENTS.					
		DESIGN					50
		TOTAL FUNDING	LNR		C		50C
12.	F13	LAPAKAHI NORTH KOHALA STATE PARK COMPLEX					
		LAND ACQUISITION, PLANNING, RESEARCH, AND INCREMENTAL DEVELOPMENT OF THE NORTH KOHALA ARCHAEOLOGICAL AND HISTORIC SITES WHICH OFFERS AN OPPORTUNITY FOR PUBLIC INTERPRETATION OF EARLY HAWAIIAN FISHING AND FARM SYSTEM. OTHER FEATURES INCLUDE KAMEHAMEHA'S BIRTH-PLACE, MOOKINI HEIAU AND OTHER FEATURES IN THE AREA.					
		LAND DESIGN				300	20
		TOTAL FUNDING	LNR			300C	20C
13.		KEALAKEKUA BAY, HAWAII					
		INCREMENTAL ACQUISITION, PLANNING, RESEARCH AND DESIGN FOR A PARK COMPRISING THE MOST IMPORTANT HISTORIC AND ARCHAEOLOGIC PLACE IN THE ENTIRE STATE, PLANNING AND RESEARCH FOLLOWED BY PARK DEVELOPMENT, CONTINUED RESEARCH AND INTERPRETIVE FACILITIES.					
		PLANS DESIGN				100	
		CONSTRUCTION				65	500
		TOTAL FUNDING	LNR			165C	500C
14.	F15	ROYAL MAUSOLEUM- NUUANU PETROGLYPHS, OAHU					
		PLANS AND RESEARCH OF SITE INCLUDING INTERPRETATION OF HISTORIC AND ARCHAEOLOGIC VALUES, RESTORATION OF CRYPT, LANDSCAPING, REPLACEMENT OF CARETAKERS HOUSE AND RESTROOMS AND OTHER IMPROVEMENTS.					
		CONSTRUCTION				400	
		TOTAL FUNDING	LNR			400C	C
15.	F21	HALEKII-PIHANA HEIAU, MAUI					
		PLANNING AND RESEARCH FOR ARCHAEOLOGICAL FEATURES AND THEIR INTERPRETATION, LANDSCAPING, STABILIZATION, RESTORATION					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		AND CONSTRUCTION OF INTERPRETIVE FACILITIES AS DETERMINED BY PLANNING. ACQUISITION OF ADJOINING LAND TO PROTECT THE FEATURES FROM STREAMBANK EROSION AND PROVIDE SITE INTEGRITY.					
		PLANS LAND					20
		TOTAL FUNDING	LNR	20	20C		20C
16.	F23	PUU O MAHUKA HEIAU, OAHU					
		RESEARCH & INTERPRETATION OF EXISTING PARK-LANDSCAPING IMPROVEMENT. LAND ACQUISITION TO MAINTAIN THE INTEGRITY OF THE SITE.					
		PLANS LAND DESIGN					25
		TOTAL FUNDING	LNR	10	15		50C
17.	F24	ULU PO HEIAU, OAHU					
		PLANS/RESEARCH AND FACILITY DEVELOPMENT FOR INTERPRETATION OF EXISTING PARK AND PROPOSED LAND ACQUISITION FOR STATE PARK/PRESERVATION PURPOSES.					
		CONSTRUCTION					150
		TOTAL FUNDING	LNR	150	150C		C
18.	F27	HEEIA STATE PARK, OAHU					
		PLANNING AND DEVELOPMENT OF MATSON POINT, AS A MAJOR PARK AND EDUCATIONAL/CULTURAL CENTER. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.					
		PLANS					100
		TOTAL FUNDING	LNR	100	100C		C
19.	F29	KUKANILOKO BIRTHSITE, WAHIAWA, OAHU					
		LAND ACQUISITION TO BE FOLLOWED BY PLANNING, RESEARCH AND APPROPRIATE DEVELOPMENT FOR A STATE HISTORICAL MONUMENT.					
		LAND					50
		TOTAL FUNDING	LNR	50	50C		C
20.	F30	NUUANU PALI STATE PARK, OAHU					

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		IMPROVEMENTS FOR EXISTING LOOKOUT AREA, INCLUDING INTERPRETIVE FACILITIES. PARK EXPANSION TO INCLUDE THE AREA BETWEEN THE PALI GOLF COURSE AND EXISTING OVERLOOK.			
		DESIGN		20	
		CONSTRUCTION			200
		TOTAL FUNDING	LNR	20C	200C
21.	F33	WAILUKU RIVER STATE PARK, HAWAII			
		DEVELOPMENT OF LANDSCAPING, LOOKOUTS, TRAILS, PICNICKING AND OTHER FACILITIES; DEVELOPMENT OF AN INTERPRETIVE MASTER PLAN AND MANAGEMENT PLAN.			
		PLANS		50	
		DESIGN		10	
		CONSTRUCTION		50	
		TOTAL FUNDING	LNR	110C	C
22.	F34	LAVA TREE STATE MONUMENT, HAWAII			
		REPLACE RESTROOM, PRUNE HAZARDOUS TREES, INSTALL WATER SYSTEM AND GENERALLY REFURBISH PARK AND INTERPRETIVE PLANNING/MANAGEMENT PLANNING FOLLOWED BY INTERPRETIVE PROGRAM.			
		PLANS		25	
		DESIGN		10	
		CONSTRUCTION			50
		TOTAL FUNDING	LNR	35C	50C
23.	F35	AKAKA FALLS, HAWAII			
		DEVELOP A MASTER PLAN FOR THIS EXISTING PARK. CONSIDER IMPROVEMENTS SUCH AS PARK EXPANSION TO A NEW LOOKOUT AREA. AN INTERPRETIVE PROGRAM, REDESIGN OF EXISTING LOOKOUT AND TRAIL DEVELOPMENT.			
		DESIGN		25	
		CONSTRUCTION		100	150
		TOTAL FUNDING	LNR	125C	150C
24.	F37	DIAMOND HEAD, OAHU			
		ANTICIPATED IMPROVEMENTS INCLUDE TRAIL DEVELOPMENT, PARKING, LANDSCAPING AND INTERPRETIVE PROGRAM. EXPANSION OF RESTROOM AND OTHER NEEDS. ADDITIONAL PLANNING AND PARK BOUNDARY SURVEY IS REQUIRED.			
		PLANS			20
		DESIGN		40	
		CONSTRUCTION		250	250

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		TOTAL FUNDING	LNR	290C	270C
25.	F46	KOKEE/WAIMEA CANYON COMPLEX, KAUAI			
		INCLUDES KOKEE AND WAIMEA CANYON STATE PARKS. CONTINUED PARK DEVELOPMENT AND REPLACEMENT OF OLDER FACILITIES, MASTER PLAN FOR THE IMPROVEMENT AND MANAGEMENT OF THE PARK. ADDITION OF INTERPRETIVE FACILITIES.			
		DESIGN		25	50
		CONSTRUCTION		250	
		TOTAL FUNDING	LNR	275C	50C
26.	F51	MAKIKI-TANTALUS STATE PARK, OAHU			
		INCREMENTAL DEVELOPMENT PER MASTER PLAN. RENOVATIONS AND IMPROVEMENTS TO EXISTING PUU UALAKAA AREA AND DEVELOPMENT OF NEW LOOKOUTS, TRAIL HUB PARKS AND CAMP GROUNDS.			
		DESIGN		30	
		CONSTRUCTION			300
		TOTAL FUNDING	LNR	30C	300C
27.	F53	KALOPA STATE RECREATION AREA, HAWAII			
		IMPROVE AND PAVE ROADWAYS AND PARKING AREAS. DEVELOP NATURE TRAILS. GENERAL RENOVATIONS INCLUDING THE RELOCATION OF THE CAMPGROUND AND IMPROVEMENTS.			
		DESIGN		25	
		CONSTRUCTION		250	
		TOTAL FUNDING	LNR	275C	C
28.	F54	WAILUA RIVER STATE PARK, KAUAI			
		LAND ACQUISITION OF INHOLDINGS. ARCHAEOLOGICAL-BIOLOGICAL RESEARCH, DEVELOPMENT OF INTERPRETIVE PROGRAM AND FACILITIES ACCORDING TO MASTER PLAN INCL. FERN GROTTTO, LYDGATE BEACH MARINA AND OTHER AREAS ALONG WAILUA RIVER. UPDATE MASTER PLAN & PROVIDE MANAGEMENT PLAN. RECONSTRUCTION OF PARK FACILITIES.			
		DESIGN		20	50
		CONSTRUCTION		250	500
		TOTAL FUNDING	LNR	270C	550C
29.	F55	WAIANAPANAPA STATE PARK, MAUI			
		INCREMENTAL ACQUISITION & DEVELOPMENT OF MAJOR PARK WITH			

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OUTSTANDING SCENIC AND HISTORIC VALUES INCLUDING PICNIC AREAS, CAMPGROUND AND LOW COST VACATION FACILITIES. DEVELOPMENT AND MANAGEMENT OF THE PARK, RECONSTRUCTION AND LIGHTING. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		PLANS		50			
		LAND		500			
		DESIGN					25
		CONSTRUCTION					250
		TOTAL FUNDING	LNR	550C			275C
30.		F57 KAHANA VALLEY STATE PARK, OAHU					
		INCREMENTAL DEVELOPMENT INCLUDING HISTORIC RESTORATION, WATER FEATURES, AND OTHER RECREATION AND CULTURAL AND HERITAGE OPPORTUNITIES PER MASTER PLAN AND ADOPTED PROPOSALS FOR HISTORICAL, ENVIRONMENTAL, CULTURAL INTERPRETATION/EDUCATION PROGRAMS. PLANNING AND RESEARCH BY ADVISORY COUNCIL AND OTHERS.					
		PLANS		50			
		CONSTRUCTION					250
		TOTAL FUNDING	LNR	50C			250C
31.		F64 MAUNA KEA RECREATION COMPLEX, HAWAII					
		PLAN, DESIGN AND IMPROVE EXISTING FACILITIES AT POHAKULOA.					
		DESIGN		25			
		CONSTRUCTION		250			
		TOTAL FUNDING	LNR	275C			C
32.		F71 WAIMANALO BAY STATE RECREATION AREA, OAHU					
		INCREMENTAL DEVELOPMENT OF BEACH PARK FOR CAMPING AND PICNICKING. INFRASTRUCTURE FOR POSSIBLE CABIN CONCESSION.					
		DESIGN		30			
		CONSTRUCTION					300
		TOTAL FUNDING	LNR	30C			300C
33.		F72 KAENA POINT STATE PARK, OAHU					
		INCREMENTAL ACQUISITION OF PRIVATE LANDS, DEVELOPMENT OF BEACH PARKS FROM MAKUA TO MOKULEIA. ALSO INCLUDES FUNDS FOR TEMPORARY MANAGEMENT OF					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		SHORELINE AREAS TO CONTROL EXISTING PUBLIC USE. INCLUDES UPLAND PEACOCK FLATS AREA AS PER MASTER PLAN. DESIGN					75 75C
		TOTAL FUNDING	LNR		C		
34.	F73	MAKENA-LAPEROUSE STATE PARK, MAUI					
		INCREMENTAL ACQUISITION OF LAND AS PER CONCEPTUAL PLAN. PROTECTION OF ARCHAEOLOGICAL AND BIOLOGICAL FEATURES. INCREMENTAL DEVELOPMENT TO INCLUDE INTERPRETATION OF THESE FEATURES AS WELL AS TO PROVIDE FACILITIES FOR RECREATION OPPORTUNITIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT. LAND DESIGN				3,000	50 50C
		TOTAL FUNDING	LNR	3,000C			
35.	F74	KEE BEACH PARK PARKING AREA, KAUAI					
		DESIGN AND CONSTRUCTION OF A PARKING AREA FOR KEE BEACH PARK. DESIGN				5	45 45C
		CONSTRUCTION				5C	
		TOTAL FUNDING	LNR				
36.	F75	HAPUNA BEACH STATE PARK, HAWAII					
		PLANS AND CONSTRUCTION, INCLUDING ACQUISITION OF LAND, IN WAILEA BAY AREA, AS PER MASTER PLAN. PLANS				25	
		LAND DESIGN				500	50 25
		CONSTRUCTION					
		TOTAL FUNDING	LNR	500A			A
			LNR	25C			75C
37.	F78	POLIHALE STATE PARK, KAUAI					
		INCREMENTAL DEVELOPMENT OF EXISTING BEACH PARK. PLANS, RESEARCH AND RENOVATION, RELOCATION OR REMOVAL OF EXISTING FACILITIES IN UNSTABLE SAND DUNE AREAS. PLANS				30	
		DESIGN					20 20C
		TOTAL FUNDING	LNR	30C			
38.	F79	KIHOLO BAY STATE PARK, HAWAII					

ACT 216

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR	M O F	FISCAL YEAR	M O F
		ACQUISITION OF PRIVATE INHOLDINGS, MASTER PLAN AND CONSTRUCTION OF INITIAL AREA.					
		PLANS					100
		TOTAL FUNDING	LNR		C		100C
39.	F81	PAPALAU-KAANAPALI WAYSIDES & BEAUTIFICATION, MAUI					
		INCREMENTAL DEVELOPMENT AND RENOVATION OF WAYSIDE PARKS AND BEAUTIFICATION OF SCENIC HIGHWAY FROM UKUMEHAME TO KAAANAPALI. EXISTING PARKS INCLUDE WAHIKULI, PAPALAU AND LAUNIUPOKO WAYSIDES.					
		DESIGN				15	25
		CONSTRUCTION				50	
		TOTAL FUNDING	LNR			65C	25C
40.	F83	AIEA BAY, OAHU					
		BACKGROUND INVESTIGATION AND PLANNING FOR CONVERSION OF AIEA BAY INTO "RAINBOW BAY - A KOKUA CONCEPT" AS REQUESTED BY THE PEARL HARBOR TASK FORCE. FUNDING INCLUDED FOR ANTICIPATED DEVELOPMENT OF LAND AREA BORDERING AIEA BAY. MAXIMUM OF 40 ACRES AVAILABLE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.					
		DESIGN				15	
		CONSTRUCTION					500
		TOTAL FUNDING	LNR			A	500A
			LNR			15C	C
41.	F85	AINA MOANA STATE RECREATION AREA, OAHU					
		IMPROVEMENTS TO EXISTING PARK INCLUDING ADDITIONAL LANDSCAPING, AND COMPLETION OF STORAGE BUILDING.					
		DESIGN				35	
		CONSTRUCTION					300
		TOTAL FUNDING	LNR			35C	300C
42.	F88	KAIKA POINT, OAHU					
		DEVELOPMENT OF BEACH PARK AT KAIKA AS PER MASTER PLAN. INCLUDES PLAN ALTERATIONS FOR A MAINTENANCE BUILDING AND OVERFLOW PARKING AREA. POSSIBLE INFRASTRUCTURE FOR CABIN CONcession.					
		PLANS				25	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN		25			50
		TOTAL FUNDING	LNR	50C			50C
43.		H18 KAMOA POINT ARCHAEOLOGICAL COMPLEX, HAWAII					
		PLANNING, ARCHAEOLOGICAL RESEARCH, STABILIZATION, RESTORATION AND INTERPRETATION; DEVELOPMENT AND PROTECTION.					
		PLANS		50			
		DESIGN		50			
		CONSTRUCTION		125			125
		TOTAL FUNDING	LNR	225C			125C
44.		H45 SACRED FALLS STATE PARK, OAHU					
		PLANS AND CONSTRUCTION FOR INCREMENTAL DEVELOPMENT OF PARK FACILITIES AS PER MASTER PLAN. ACQUISITION OF LAND FOR PARK ROAD ACCESS.					
		LAND		250			
		DESIGN					50
		TOTAL FUNDING	LNR	250C			50C
45.		H68 MAKAPUU POINT, OAHU					
		PLANS, BOUNDARY SURVEY AND CONSTRUCTION ON LANDS TO BE TURNED OVER TO THE STATE BY THE FEDERAL GOVERNMENT. CONSTRUCTION TO INCLUDE REPAIR OF EXISTING FACILITIES. PLANS AND APPRAISAL FOR ACQUISITION OF ADDITIONAL ADJOINING LANDS.					
		PLANS		50			
		LAND		50			
		DESIGN		25			
		CONSTRUCTION		50			150
		TOTAL FUNDING	LNR	175C			150C
46.		H73 KAKAAKO WATERFRONT PARK, OAHU					
		PLANS & CONSTRUCTION FOR THE DEVELOPMENT OF A WATERFRONT PARK & RECREATIONAL FACILITIES ON THE FORT ARMSTRONG-KEWALO PENINSULA.					
		CONSTRUCTION		400			
		TOTAL FUNDING	LNR	400C			C
47.		H80 HANAIEI RECREATIONAL PIER, HANAIEI, KAUAI					
		RECONSTRUCTION OF HANAIEI RECREATIONAL PIER.					
		DESIGN		20			
		CONSTRUCTION		300			300
		TOTAL FUNDING	LNR	320C			300C

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
48.		WAIKIKI WAR MEMORIAL NATATORIUM, OAHU					
		DESIGN FOR RESTORATION OF NATATORIUM.					
		DESIGN		1,200			
		TOTAL FUNDING	LNR	1,200C			C
<b>TRN801 - OCEAN-BASED RECREATION</b>							
49.		O20 ALA WAI BOAT HARBOR IMPROVEMENTS, OAHU					
		EXTENSION OF MARGINAL WHARF, IMPROVEMENTS TO TELEPHONE SYSTEM, AND OTHER IMPROVEMENTS.					
		DESIGN		25		5	
		CONSTRUCTION		450		195	
		TOTAL FUNDING	TRN	475D		200D	
50.		01K NAWILIWILI BOAT HARBOR, KAUAI					
		INSTALL WATER LINE AND OTHER IMPROVEMENTS.					
		DESIGN		15			
		CONSTRUCTION		100			
		TOTAL FUNDING	TRN	115D			D
51.		01S STATEWIDE IMPROVEMENTS TO BOATING FAC.					
		IMPROVEMENTS TO EXISTING BOAT HARBORS AND BOAT REFUGE AREAS.					
		DESIGN		10		10	
		CONSTRUCTION		95		95	
		TOTAL FUNDING	TRN	105D		105D	
52.		04S STATEWIDE WASTE OIL FACILITIES					
		CONSTRUCT A SHED FOR COLLECTION/DISPOSAL OF WASTE OIL AND OTHER PETROLEUM PRODUCTS AT VARIOUS BOAT HARBORS.					
		DESIGN		10		10	
		CONSTRUCTION		60		60	
		TOTAL FUNDING	TRN	70D		70D	
53.		05S STATEWIDE PLANNING FOR BOATING FACILITIES					
		CONTINUING STUDIES, RESEARCH AND ADVANCED PLANNING OF BOAT HARBORS ON ALL ISLANDS.					
		PLANS		50			
		TOTAL FUNDING	TRN	50D			D
54.		13M IMPROVEMENTS TO MAALAEA BOAT HARBOR, MAUI					
		PAVING, ELECTRICAL IMPROVEMENTS, CONSTRUCT HARBOR					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		AGENT'S OFFICE AND OTHER IMPROVEMENTS. IMPROVEMENTS AND EXPANSION OF BREAKWATER (TO BE SUPPLEMENTED BY FEDERAL FUNDS).					
		DESIGN		35		20	
		CONSTRUCTION		275		80	
		TOTAL FUNDING	TRN	310D		100D	
55.		19H HONOKOHAU BOAT HARBOR IMPROVEMENTS					
		INSTALL WATER DISTRIBUTION MAIN, CONSTRUCT PAVED ACCESS ROAD AND GRADED PARKING AREA, SECURITY FENCING, AND OTHER IMPROVEMENTS.					
		DESIGN		60			
		CONSTRUCTION		460.			
		TOTAL FUNDING	TRN	520D			D
56.		20M KAUNAKAKAI BOAT HARBOR IMPROVEMENTS, MOLOKAI					
		PROVIDE ELECTRICAL OUTLETS AND OTHER IMPROVEMENTS.					
		DESIGN				15	
		CONSTRUCTION				75	
		TOTAL FUNDING	TRN		D	90D	
57.		20O HEEIA-KEA BOAT HARBOR IMPROVEMENTS, OAHU					
		CONSTRUCT OFFICE, EXTEND LOADING DOCK, MODIFY MOORINGS, WATERLINE, CLEAR BACKUP AREA AND OTHER IMPROVEMENTS.					
		DESIGN		40			
		CONSTRUCTION		160			
		TOTAL FUNDING	TRN	200D			D
<b>AGS889 - SPECTATOR EVENTS &amp; SHOWS - ALOHA STADIUM</b>							
58.		C59 ALOHA STADIUM RENOVATION OF COURSE AND OTHER WALKING AREAS					
		RENOVATE CORRODED AND UNPROTECTED CONCRETE AND METAL DECKS.					
		DESIGN		250			
		CONSTRUCTION		2,800			
		TOTAL FUNDING	AGS	3,050C			C
59.		B87B ALOHA STADIUM RENOVATION OF ROOF AND OTHER MEMBERS, PHASE 2					
		REMOVE ROOF DECK AND RENOVATE ROOF SYSTEM, INCLUDING LIGHTING.					

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN		210			
		CONSTRUCTION		2,350			
		TOTAL FUNDING	AGS	2,560C			C
<b>LNR809 - GENERAL ADMIN FOR CULTURE &amp; RECREATION</b>							
<b>60. F02 STATEWIDE INTERPRETIVE PLANNING</b>							
THERE IS NO OVERALL INTERPRETIVE PROGRAM FOR EXISTING STATE PARKS. HISTORIC-ARCHAEOLOGIC PROJECTS UNDERWAY INVOLVE MAJOR INTERPRETIVE PROGRAMS. THESE PROJECTS SHOULD BE COORDINATED. LESS SIGNIFICANT STATE PARK HISTORIC AND NATURAL FEATURES CAN BE INTERPRETED BUT THESE FEATURES MUST BE EVALUATED TO DETERMINE THE NEED AND PRIORITY FOR INTERPRETATION.							
		PLANS		20			
		DESIGN					5
		CONSTRUCTION					10
		TOTAL FUNDING	LNR	20C			15C
<b>61. H08 STATEWIDE FACILITIES FOR THE HANDICAPPED</b>							
CONSTRUCTION OF FACILITIES AND/OR RECONSTRUCTION OF EXISTING FACILITIES TO AID THE HANDICAPPED.							
		DESIGN		15			
		CONSTRUCTION		75			75
		TOTAL FUNDING	LNR	90C			75C
<b>62. H09 STATEWIDE MINOR IMPROVEMENTS</b>							
MINOR ADDITIONS, RENOVATIONS AND IMPROVEMENTS TO PARK FACILITIES.							
		DESIGN		15			15
		CONSTRUCTION		150			150
		TOTAL FUNDING	LNR	165C			165C
<b>I. PUBLIC SAFETY</b>							
<b>SOC402 - HIGH SECURITY FACILITY</b>							
<b>1. HALAWA MEDIUM SECURITY FACILITY INDOOR RECREATIONAL FACILITY</b>							
DESIGN, CONSTRUCT AND EQUIP AN INDOOR RECREATIONAL FACILITY FOR THE HALAWA MEDIUM SECURITY FACILITY.							
		DESIGN		100			
		CONSTRUCTION		2,500			
		EQUIPMENT		150			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		TOTAL FUNDING	AGS	2,750C			C
2.		HALAWA MEDIUM SECURITY FACILITY-MINOR IMPROVEMENTS					
		PLANS, DESIGN AND CONSTRUCTION OF WORK STATIONS, TRAP DOORS AND INMATE PRIVACY DOORS.					
		PLANS		36			
		DESIGN		72			
		CONSTRUCTION		612			
		TOTAL FUNDING	AGS	720C			C
3.		CD8702 HIGH SECURITY FACILITY-ADDITIONAL RESIDENCY UNIT & SUPPORTING FACILITIES					
		DESIGN, CONSTRUCT AND EQUIP AN ADDITIONAL RESIDENCY MODULE & SUPPORTING FACILITIES AT THE HALAWA HIGH SECURITY FACILITY BRANCH.					
		CONSTRUCTION		4,000			
		EQUIPMENT		100			
		TOTAL FUNDING	AGS	4,100C			C
<b>SOC406 - MAUI COMMUNITY CORRECTIONAL CENTER</b>							
4.		CD8807 MCCC PERMANENT EXPANSION					
		DESIGN, CONSTRUCT AND EQUIP RENOVATED AND EXPANDED FACILITIES FOR THE MCCC TO PROVIDE CORRECTIONAL PROGRAM SERVICES FOR INMATES AND RESIDENCE FOR GROWING POPULATION.					
		DESIGN		368			
		TOTAL FUNDING	AGS	368C			C
<b>SOC407 - OAHU COMMUNITY CORRECTIONAL CENTER</b>							
5.		CD8801 OAHU COMMUNITY CORRECTIONAL CENTER-DETENTION AND RELATED SUPPORT FACILITIES					
		PLAN, DESIGN, CONSTRUCT AND EQUIP RESIDENCY AND RELATED SUPPORT FACILITIES AT THE OAHU COMMUNITY CORRECTIONAL CENTER FOR DETAINED INMATES.					
		PLANS		100			
		DESIGN		750			
		TOTAL FUNDING	AGS	850C			C
<b>SOC493 - GENERAL ADMINISTRATION - CONFINEMENT</b>							
6.		CD8806 KOOLAU CORRECTIONAL COMPLEX					

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN, CONSTRUCT AND EQUIP A CORRECTIONAL COMPLEX TO INCLUDE SUPPORT SERVICES FOR ADULT FEMALES AND JUVENILES PLANS				90	
		TOTAL FUNDING	AGS			90C	C
<b>DEF110 - AMELIORATION OF PHYSICAL DISASTERS</b>							
7. A25 WAHIAWA ARMY NATIONAL GUARD ARMORY ADDITION							
		PLANNING AND CONSTRUCTION OF AN ADDITION TO AND UPGRADING OF THE EXISTING WAHIAWA ARMORY. ADDITION WILL BE OF PERMANENT MASONRY CONSTRUCTION, INCLUDING ALL UTILITIES, ACCESS ROAD, PARKING AREAS, FENCING, AND OTHER SUPPORTING FEATURES REQUIRED TO COMPLETE THE FACILITY FOR OCCUPANCY. THIS PROJECT IS DEEMED NECESSARY TO QUALITY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		DESIGN				380	
		CONSTRUCTION					2,930
		TOTAL FUNDING	AGS			180C	430C
			AGS			200N	2,500N
8. A26 WAIAWA ARMY NATIONAL GUARD ARMORY ADDITION							
		DESIGN AND CONSTRUCTION OF AN ADDITION TO AND UPGRADING OF THE EXISTING WAIAWA ARMORY. ADDITION WILL BE OF PERMANENT MASONRY CONSTRUCTION, INCLUDING ALL UTILITIES, ACCESS ROAD, PARKING AREAS, FENCING, AND OTHER SUPPORTING FEATURES REQUIRED TO COMPLETE THE FACILITY FOR OCCUPANCY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		DESIGN				200	
		TOTAL FUNDING	AGS			130C	C
			AGS			70N	N
9. A31 ADDITIONAL IMPROVEMENTS TO NATIONAL GUARD ARMORIES							
		PLANNING AND CONSTRUCTION OF ADDITIONAL IMPROVEMENTS AT ALL NATIONAL GUARD ARMORIES TO UPGRADE FACILITIES TO CONFORM TO CURRENT NATIONAL GUARD BUREAU STANDARDS AND CRITERIA					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F

AND TO MEET OTHER UNIT REQUIREMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN				35		
CONSTRUCTION				150		
TOTAL FUNDING		AGS		185C		C

10. A39 ARMY NATIONAL GUARD ARMORY, HANAPEPE, KAUAI

RELOCATION AND RENOVATION OF ORIGINAL ARMORY WITH ADDITION OF A SPECIAL DESIGNED ARMORY FACILITY OF PERMANENT STEEL AND MASONRY TYPE CONSTRUCTION INCLUDING ALL UTILITIES, ACCESS ROAD, PARKING AREAS, SECURITY FENCING, AND OTHER SUPPORTING FEATURES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

CONSTRUCTION				600		
TOTAL FUNDING		AGS		170C		C
		AGS		430N		N

11. A44 ARMY NATIONAL GUARD ARMORY, HONOLULU, HAWAII

PLANNING, DESIGN AND CONSTRUCTION OF AN ARMY NATIONAL GUARD ARMORY FACILITY OF PERMANENT STEEL AND MASONRY-TYPE CONSTRUCTION, AND INCLUDING ALL UTILITIES, ACCESS ROAD, PARKING AREAS, SECURITY FENCING, AND OTHER SUPPORTING FEATURES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

PLANS						50
TOTAL FUNDING		AGS			C	50C

12. C12 UPGRADE OF DISASTER WARNING AND COMMUNICATION DEVICES STATEWIDE

INCREMENTAL UPGRADE OF CIVIL DEFENSE DISASTER WARNING AND COMMUNICATIONS DEVICES STATEWIDE DUE TO INADEQUATE WARNING COVERAGE OF MANY 20 + YR OLD EXISTING DEVICES. THIS IS A CONTINUING PROGRAM FROM YEAR TO YEAR. ALSO THE RENOVATION AND/OR UPGRADE OF DAMAGED DEVICES FROM NATURAL AND/OR MAN-MADE

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DISASTERS. THIS PROJECT IS NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		PLANS			1		1
		LAND			1		1
		DESIGN			18		18
		CONSTRUCTION			380		380
		TOTAL FUNDING	AGS		210C		210C
			AGS		190N		190N

**13. C13 ADDITIONAL DISASTER WARNING AND COMMUNICATIONS DEVICES, STATEWIDE**

INCREMENTAL INSTALLATION OF ADDITIONAL CIVIL DEFENSE DISASTER WARNING SIRENS, OTHER WARNING DEVICES AND COMMUNICATIONS EQUIPMENT, STATEWIDE, TO EXPAND THE COVERAGE OF WARNING SYSTEM TO KEEP PACE WITH NEW DEVELOPMENTS, GROWTH OF COMMUNITIES & POPULATION SHIFTS. THIS IS A CONTINUING PROGRAM FROM YEAR TO YEAR. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

PLANS			1		1
LAND			1		1
DESIGN			38		38
CONSTRUCTION			460		460
TOTAL FUNDING	AGS		270C		270C
	AGS		230N		230N

**J. INDIVIDUAL RIGHTS**

**AGR812 - MEASUREMENT STANDARDS**

**1. A-027 MEASUREMENT STANDARDS - DEPT OF AGRICULTURE HEAVY VEHICLE PARKING AREA**

PARKING AND STORAGE AREA ALONGSIDE EXISTING MEASUREMENT STANDARDS BLDG. PAVED AREA SIZE IS APPROXIMATELY 35 FEET BY 141 FEET. PAVEMENT MUST BE ABLE TO SUPPORT 50,000 LB GVW TEST WEIGHT TRUCK. DRIVEWAY INTERFACE TO ILALO STREET TO BE INCLUDED. PAVED AREA TO BE COVERED WITH ROOF TO PROTECT VEHICLES AND EQUIPMENT FROM WEATHER. PROVIDE SECURITY FENCING AROUND COMPLEX.

DESIGN			25		
CONSTRUCTION			38		
TOTAL FUNDING	AGS		63C		C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F

**K. GOVERNMENT-WIDE SUPPORT**

**GOV100 - OFFICE OF THE GOVERNOR**

1. G01 PROJECT ADJUSTMENT FUND

TO ESTABLISH A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT (TO BE EXPENDED BY THE OFFICE OF THE GOVERNOR).

DESIGN			3,000		
TOTAL FUNDING	GOV		3,000C		C

**PED104 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY**

2. HCD001 KAKAAKO COMMUNITY DEVELOPMENT DISTRICT, OAHU

PLANS, LAND, DESIGN AND CONSTRUCTION FUNDS FOR PLANNING AND DEVELOPMENT AND PROJECT COSTS, AS DEFINED IN CHAPTER 206E, HAWAII REVISED STATUTES, FOR THE KAKAAKO COMMUNITY DEVELOPMENT DISTRICT, MAY BE USED TO MATCH FEDERAL & NON-STATE FUNDS, AS MAY BE AVAILABLE.

PLANS			100		840
LAND			20		1,010
DESIGN			1,590		500
CONSTRUCTION			1,930		21,230
TOTAL FUNDING	PED		3,640C		23,580C

**ATG100 - LEGAL SERVICES**

3. DEPARTMENT OF THE ATTORNEY GENERAL - PHYSICAL CONSOLIDATION

FUNDS PROVIDED TO DEVELOP PLANS FOR THE CENTRALIZATION OF THE LEGAL SERVICES PROGRAM IN ONE FACILITY.

PLANS			50		
TOTAL FUNDING	ATG		50C		C

**BUF131 - ELECTRONIC DATA PROCESSING SERVICES**

4. EDPD1 ELECTRONIC DATA PROCESSING COMPUTER FACILITY

PLAN, DESIGN, AND CONSTRUCT STATE COMPUTER FACILITY. THERE IS A NEED FOR A SECOND COMPUTER SITE TO MEET FEDERAL STANDARDS IN THE OPERATION OF THE HAWAII AUTOMATED WELFARE INFORMATION SYSTEM FOR THE DSSH, WITH THE

**ACT 216**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		SECOND COMPUTER SITE. FUNDING WILL BE SPLIT APPROXIMATELY 90% FEDERAL AND 10% STATE WITH A POTENTIAL SAVINGS OF ABOUT \$6 MILLION IN STATE FUNDS. OTHERWISE, FUNDING WILL BE SPLIT 50-50.					
		PLANS			200		
		TOTAL FUNDING	AGS		200C		C
<b>LNR101 - PUBLIC LANDS MANAGEMENT</b>							
		5. KONA MARSHALLING YARD, PHASE II, HAWAII					
		PLANS, DESIGN AND CONSTRUCTION OF PHASE II CONSISTING OF A COVERED STRUCTURE, PAVING OF THE GRADED AREA, INSTALLING CHAIN LINK FENCING, RETAINING WALLS AND UTILITIES INCLUDING OTHER INCIDENTAL AND APPURTENANT WORK.					
		PLANS			15		
		LAND			15		
		DESIGN			50		
		CONSTRUCTION			410		
		TOTAL FUNDING	LNR		490C		C
		6. E58 SEAWALL IMPROVEMENT, WAIKIKI					
		PLANS, DESIGN AND INCREMENTAL CONSTRUCTION OF IMPROVEMENTS TO SEAWALL INCLUDING RAILINGS, REHABILITATION OF SEAWALL, FENCES AND OTHER IMPROVEMENTS NECESSARY FOR THE SAFE PASSAGE OF THE PUBLIC OVER EXISTING SEAWALLS.					
		PLANS			15		
		DESIGN			25		
		CONSTRUCTION			150		
		TOTAL FUNDING	LNR		190C		C
<b>AGS221 - CONSTRUCTION</b>							
		7. A39 KAUNAKAKAI CIVIC CENTER, PHASE 1					
		PROVIDE A CIVIC CENTER IN KAUNAKAKAI. WORK TO BE DONE IN 3 PHASES.					
		LAND			960		
		DESIGN			500		
		TOTAL FUNDING	AGS		1,460C		C
		8. A48 LIHUE MULTI-AGENCY MAINTENANCE & SERVICE FACILITY, PHASE 1.					
		PROVIDE OFFICES, MAINTENANCE SHOPS & STORAGE BUILDINGS FOR THE KAUAI DISTRICT TO REPLACE & CONSOLIDATE CURRENT OPERATIONS					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		LOCATED IN SEVERAL INADEQUATE FACILITIES. WORK TO BE DONE IN TWO PHASES.					
		DESIGN		142			
		TOTAL FUNDING	AGS	142C			C
9.	A90	LILIHAI CIVIC CENTER, PHASE I					
		PROVIDE OFFICE BUILDINGS & PARKING STRUCTURE FOR STATE AGENCIES LEASING SPACE IN KALIHPALAMA AREA. WORK TO BE DONE IN 4 PHASES.					
		PLANS		150			
		TOTAL FUNDING	AGS	150C			C
10.	B27	ADVANCE PLANNING, STATEWIDE					
		PROVIDE ASSISTANCE TO THE PUBLIC, STATE AND COUNTIES IN MATTERS RELATING TO PUBLIC WORKS DIVISION. IT INCLUDES THE PREPARATION OF REPORTS, STUDIES, INVENTORIES, REVIEWS AND PERFORMANCE OF ALL NECESSARY ACTIVITIES TO CARRY OUT DAGS FUNCTIONS.					
		PLANS		200		200	
		TOTAL FUNDING	AGS	200C		200C	
11.	B28	STATE OFFICE BUILDINGS REMODELING					
		REMODELING AND UPGRADING STATE OFFICE BUILDINGS, STATEWIDE, TO PROVIDE ADEQUATE SPACE FOR AGENCIES TO ACCOMMODATE THEIR OPERATIONAL REQUIREMENTS. WORK INCLUDES REMODELING FOR REORGANIZATION, PROGRAM CHANGES, STAFFING CHANGES, CORRECTION OF INEFFICIENT OFFICE LAYOUTS, OSHA REGULATIONS, PLUMBING, ELEVATORS, ELECTRICAL SYSTEMS, ETC.					
		DESIGN		60			
		CONSTRUCTION		440			
		TOTAL FUNDING	AGS	500C			C
12.	B58	WAILUKU COURT BUILDINGS RENOVATION					
		RENOVATING THE EXISTING CIRCUIT AND DISTRICT COURT BUILDINGS INCLUDING MINOR RENOVATIONS TO THE WAILUKU STATE OFFICE BUILDING FOR OFFICE USE BY VARIOUS STATE AGENCIES.					
		CONSTRUCTION		459			
		TOTAL FUNDING	AGS	459C			C
13.	B79	HALE AUHAU, RENOVATION AND REMODELING, ADDITIONAL CONSTRUCTION					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		PLAN, DESIGN, AND CONSTRUCT BUILDING RENOVATIONS TO MODERNIZE HALE AUHAU. INCLUDES DEMOLITION AND RENOVATION OF A.C., LIGHTING, ELECTRICAL, AND MECHANICAL SYSTEMS; ASBESTOS REMOVAL; MODIFICATION FOR HANDICAPPED ACCESSIBILITY; AND BUILDING ALTERATIONS FOR NEW OCCUPANTS.					
		CONSTRUCTION			357		
		TOTAL FUNDING	AGS		357C		C
14.	B80	WASHINGTON PLACE IMPROVEMENTS					
		DESIGN AND CONSTRUCTION TO CORRECT CURRENT CODE DEFICIENCIES AND GROUND WATER SEEPAGE. INCLUDES DEMOLITION, MAJOR REWIRING, CONSTRUCTION OF A NEW STAIRWAY, DRAINAGE SYSTEM, UP-GRADED ROOFING SYSTEM, AND MISC. STRUCTURAL AND COSMETIC WORK AS NECESSARY.					
		CONSTRUCTION			85		
		TOTAL FUNDING	AGS		85C		C
15.	B82	STATE CAPITAL DISTRICT COMMUNICATION DUCTLINES					
		CONSTRUCT COMMUNICATION DUCTLINES BETWEEN KALANIMOKU BUILDING AND OTHER BUILDINGS IN THE STATE CAPITAL DISTRICT.					
		DESIGN			36		
		CONSTRUCTION			363		
		TOTAL FUNDING	AGS		399C		C
16.	B98	LILUOKALANI BUILDING ADDITIONS & IMPROVEMENTS PHASE I					
		PROVIDE ADDITIONAL OFFICE SPACE BY EXPANDING THE EXISTING BUILDING, RENOVATE THE EXISTING OFFICE SPACE, & UPGRADE THE A.C., ACOUSTICAL CEILING, CIRCULATION, LIGHTING, & SOLID WASTE DISPOSAL SYSTEMS. THE WORK IS TO BE DONE IN 4 PHASES.					
		DESIGN			435		
		TOTAL FUNDING	AGS		435C		C
17.	C66	KILOHANA TRANSMITTER SITE ROAD, KAUAI					
		PROVIDE A PAVED ACCESS ROAD TO THE KILOHANA TRANSMITTER SITE ON KAUAI.					
		DESIGN			10		
		CONSTRUCTION			74		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		TOTAL FUNDING	AGS		84C		C
18.		LAND ACQUISITION RELATED TO ASBESTOS REMOVAL IN STATE CAPITAL DIST. OFC. BLDG.					
		FUNDS FOR LAND ACQUISITION RELATED TO ASBESTOS MITIGATION IN THE STATE CAPITAL DISTRICT. INCLUDES DESIGN FOR RENOVATION AND CONSTRUCTION.					
		LAND DESIGN			24,720		
					280		
		TOTAL FUNDING	AGS		25,000C		C
19.		B84B KAMAMALU BUILDING ASBESTOS MITIGATION & IMPROVEMENTS, PHASE 2					
		REMOVE ASBESTOS AND RENOVATE THE BUILDING. WORK TO BE DONE IN 5 PHASES. INCLUDES ACCOMMODATIONS FOR THE PRESENT OCCUPANTS.					
		DESIGN			69		
		CONSTRUCTION					610
		TOTAL FUNDING	AGS		A		610A
			AGS		69C		C
20.		B84C KAMAMALU BUILDING ASBESTOS MITIGATION & IMPROVEMENTS, PHASE 3					
		REMOVE ASBESTOS AND RENOVATE THE BUILDING. WORK TO BE DONE IN 5 PHASES. INCLUDES ACCOMMODATIONS FOR THE PRESENT OCCUPANTS.					
		DESIGN			204		
		CONSTRUCTION					2,135
		TOTAL FUNDING	AGS		A		2,135A
			AGS		204C		C
21.		B84D KAMAMALU BUILDING ASBESTOS MITIGATION & IMPROVEMENTS, PHASE 4					
		REMOVE ASBESTOS AND RENOVATE THE BUILDING. WORK TO BE DONE IN 5 PHASES. INCLUDES ACCOMMODATIONS FOR THE PRESENT OCCUPANTS.					
		DESIGN					369
		TOTAL FUNDING	AGS		A		369A
22.		C04B LEEWARD CIVIC CENTER, PHASE 2					
		PROVIDE A CIVIC CENTER FOR LEEWARD OAHU. WORK TO BE DONE IN 4 PHASES.					
		CONSTRUCTION			103		
		TOTAL FUNDING	AGS		103C		C
23.		C36A RICHARDS ST. PARKING GARAGE, PHASE 1					

ACT 216

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		PROVIDE A MULTI-LEVEL PARKING STRUCTURE AT THE SITE OF THE EXISTING CITY PARKING STRUCTURE ON HOTEL ST. BETWEEN ALAKEA & RICHARDS ST. THE EXISTING STRUCTURE IS TO BE ACQUIRED & DEMOLISHED. THE WORK IS TO BE DONE IN 2 PHASES.					
		LAND			5,115		
		TOTAL FUNDING	AGS		5,115C		C
24.		RICHARDS ST. PARKING GARAGE, PHASE 2					
		DESIGN FOR DEMOLITION OF EXISTING CITY PARKING GARAGE AND FOR CONSTRUCTION OF MULTI-LEVEL PARKING AND OFFICE STRUCTURE. (INCLUDES PARKING SPACES ELIMINATED DUE TO IOLANI PALACE RESTORATION).					
		DESIGN					1,590
		TOTAL FUNDING	AGS			C	1,590C
25.		C38B KINAU HALE BUILDING ASBESTOS MITIGATION & IMPROVEMENTS, PHASE 2					
		REMOVE ASBESTOS, DEMOLISH A PORTION OF THE BUILDING, ENLARGE THE BUILDING, AND RENOVATE AND UPGRADE THE BUILDING IN 5 PHASES. OFFICE SPACE WILL BE ACQUIRED AND RENOVATED FOR USE BY DOH WHILE WORK ON KINAU HALE IS BEING DONE.					
		DESIGN					100
		CONSTRUCTION					970
		TOTAL FUNDING	AGS			C	1,070C
26.		HILO CIVIC CENTER.					
		IMPROVEMENTS. (FUNDS MAY BE DELEGATED TO THE COUNTY OF HAWAII).					
		PLANS			50		
		TOTAL FUNDING	AGS		50C		C
27.		LIHUE SHOPPING CENTER, KAUAI					
		ACQUISITION OF LIHUE SHOPPING CENTER FOR KAUAI COUNTY BUILDING.					
		CONSTRUCTION			5,000		
		TOTAL FUNDING	AGS		5,000C		C
28.		MAUI DISTRICT OFFICE - RELOCATION TO KAHULUI AIRPORT AREA					
		DESIGN AND CONSTRUCTION TO RELOCATE MAUI DISTRICT OFFICE.					
		DESIGN				10	



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		CONSTRUCTION			90		
		TOTAL FUNDING	AGS		100C		C
<b>ATG801 - CAPITOL BUILDING SECURITY</b>							
29. GARAGE SECURITY GATE-STATE CAPITOL							
		DESIGN AND CONSTRUCT SECURITY GATE FOR THE PUNCHBOWL EXIT/ENTRANCE OF THE STATE CAPITOL BASEMENT GARAGE.					
		DESIGN			3		
		CONSTRUCTION			30		
		TOTAL FUNDING	AGS		33C		C
30. CAPITOL BASEMENT SECURITY, OAHU							
		DESIGN AND CONSTRUCT SECURITY OFFICE WINDOW FOR SURVEILLANCE AND OBSERVATION OF MAUKA ENTRANCE.					
		DESIGN			5		
		CONSTRUCTION			45		
		TOTAL FUNDING	AGS		50C		C
<b>SUB201 - CITY AND COUNTY OF HONOLULU</b>							
31. MOANALUA ROAD, OAHU							
		DESIGN AND CONSTRUCTION TO COMPLETE IMPROVEMENT.					
		DESIGN			85		
		CONSTRUCTION			765		
		TOTAL FUNDING	CCH		850C		C
<b>SUB401 - COUNTY OF MAUI</b>							
32. KAHOMA STREAM FLOOD CONTROL PROJECT, MAUI							
		LAND, DESIGN AND CONSTRUCTION FOR FLOOD CONTROL IMPROVEMENTS, INCLUDING BRIDGE (TO BE EXPENDED BY THE COUNTY OF MAUI).					
		LAND			1		
		DESIGN			49		
		CONSTRUCTION			400		
		TOTAL FUNDING	COM		450C		C
33. KAUPŌ ROAD RECONSTRUCTION, MAUI							
		PLANS, DESIGN AND CONSTRUCTION FOR REPAIR AND RECONSTRUCTION OF THE PUBLIC HIGHWAY AT KAUPŌ, MAUI, HAWAII.					
		PLANS			10		
		DESIGN			50		
		CONSTRUCTION			540		
		TOTAL FUNDING	COM		600A		A

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
34. HONOKAWAI BRIDGE FLOOD CONTROL PROJECT, MAUI							
DESIGN AND CONSTRUCTION FOR FLOOD CONTROL IMPROVEMENTS.							
DESIGN				10			
CONSTRUCTION				90			
TOTAL FUNDING				100C			C
SUB501 - COUNTY OF KAUAI							
35. KAUAI ECONOMIC OPPORTUNITY FACILITY, KAUAI							
DESIGN AND CONSTRUCTION OF GROUP HOME FOR PHYSICALLY DISABLED.							
DESIGN							20
CONSTRUCTION							160
TOTAL FUNDING							180A

SECTION 281. Provided that of the general bond fund appropriation to commerce and industry (PED 102), the sum of \$1,000,000 shall be for plans and construction of an irradiation facility using cobalt-60; provided further that the allotment of this appropriation shall be contingent upon the commitment by a county, state, federal agency, or private firm to assume operation of the irradiation facility after the facility's three year demonstration period is over and the economic feasibility of the irradiation process and facility is demonstrated; provided further that an amount of up to \$200,000 shall be expended for a comprehensive environmental impact statement which will address the environmental/economic/social impact of an irradiation facility; provided further that the expenditure of the \$160,000 shall be contingent upon the Papaya Administrative Committee contributing an additional \$40,000 towards the cost of conducting the environmental impact statement; provided further that any consultant selected to undertake the preparation of the environmental impact statement will have had no direct current or previous association with any organization or firm involved in the support or opposition of food irradiation; provided further that public notification shall be given of all consultants responding to the request for proposals thirty days prior to final selection by the governor; provided further that expenditure of the \$200,000 shall be contingent upon the U.S. Department of Energy's commitment to provide up to \$420,000 for the design of the irradiation facility; provided further that of the \$1,000,000 appropriation, the expenditure of funds for the construction of the irradiation facility shall be contingent upon the approval of the irradiation facility project by the 1988 legislature and the acceptance of the project's completed environmental impact statement by the Governor; provided further that other treatment options acceptable to the U.S. department of agriculture, the government of Japan, and the state of California, such as vapor heat treatment, shall be given consideration in the environmental impact statement before funds for the irradiation facility are released.

SECTION 282. Provided that of the special fund appropriation for statewide highway planning (TRN 595), the sum of \$100,000 in the fiscal biennium 1987-89 shall be expended to provide technical, highways information and any other appropriate assistance to the consultants contracted to develop long-range plans for the neighbor islands. Provided further that any available highway planning funds not devoted to other projects be made available to fund these long-range plans.

SECTION 283. Provided that the amount required for the acquisition, design and construction of the Wahiawa Elderly project may be advanced from the dwelling unit revolving fund established under Chapter 359G, Hawaii Revised Statutes.

SECTION 284. Provided that the site selection for a new laboratory facility, laboratory services (HTH 901), shall consider state owned lands adjacent to the Waimano training school and hospital, department of health (HTH 511), as a location for the laboratory and other department of health facilities.

SECTION 285. Provided that the department of social services and housing shall employ inmate labor for the maintenance and construction of state correctional facilities and no such labor shall be purchased from any other source except when inmate labor is unavailable or the department's inmate labor force does not possess or could not be trained to acquire the technical skills required for the maintenance or construction job.

SECTION 286. Provided that the Maui community correctional center, department of social services and housing (SOC 406), shall conduct a study on the cost effectiveness of constructing a minimum security facility at an appropriate location to accommodate the growing inmate population at the Maui community correctional center.

SECTION 287. Provided that of the capital improvement appropriations for the University of Hawaii, the sum of \$475,000 in general obligation bond funds in fiscal year 1987-88 and \$3,727,000 in general funds in fiscal year 1988-89 shall be for expenditure in the following institutional support programs for the removal of asbestos from facilities:

<u>Program ID</u>	<u>FY 1987-88</u>	<u>FY 1988-89</u>
UOH 106	\$ 315,000	\$ 2,455,000
UOH 216	10,000	1,272,000
UOH 906	150,000	.....

Provided that, except in cases of unforeseen circumstances or justifiable cost overruns, these funds will be used for the removal of asbestos from: The Auxiliary Services Building, Keller Hall, Moore Hall, the Physical Science Building, Hamilton Library-Part B, and pipe lagging in various buildings on the Manoa Campus; and buildings identified to contain asbestos on the Hilo and community college campuses; and provided further that the University of Hawaii shall provide annual reports to the legislature on the expenditure of the funds for these projects twenty days prior to the convening of the 1988 and 1989 regular session of the legislature.

SECTION 288. Provided that of the capital improvement appropriations for the University of Hawaii, the sum of \$731,000 in general obligation bond funds in fiscal year 1987-88 and \$495,000 in general funds in fiscal year 1988-89 shall be for expenditure in the following institutional support programs for the replacement of transformers with PCB:

ACT 216

<u>Program ID</u>	<u>FY 1987-88</u>	<u>FY 1988-89</u>
UOH 106	\$ 495,000	\$ 495,000
UOH 906	236,000	.....

Provided that except in cases of unforeseen circumstances or justifiable cost overruns, these funds shall be used to replace transformers with PCB on the Manoa and community college campuses; provided further that the University of Hawaii shall provide annual reports to the legislature on the expenditure of the funds for these projects twenty days prior to the convening of the 1988 and 1989 regular sessions.

SECTION 289. Section 222 of Act 300, Session Laws of Hawaii 1985, as amended by Section 6 of Act 345, Session Laws of Hawaii 1986, is amended by amending formal education item no. 57 for EDN 407, for fiscal year 1985-86, to read as follows:

“57. 085-11 Public Libraries  
Removal of asbestos materials in public libraries.

[PLANS] DESIGN	60		
[LAND] CONSTRUCTION	536		
TOTAL FUNDING	AGS 596		C”

SECTION 290. Provided that of the general funds and general obligation bond funds appropriated for capital improvement to modify facilities to meet HOSHA or other code violations under institutional support-UOH, Manoa (UOH 106), shall be used, except in cases of unforeseen circumstances and justifiable cost overruns, for: Bilger Addition, fume hood sashes; Snyder Hall, fume hoods; Henke Hall, flammable storage facility; Holmes Hall, flammable storage and hood exhaust; Gilmore Hall, fume hoods; Sinclair Library, panic hardware and security alarm; and for a central fire alarm system for the Manoa campus; provided further that the University of Hawaii shall provide annual reports to the legislature on the expenditure of the funds for these projects twenty days prior to the convening of the 1988 and 1989 regular sessions.

SECTION 291. Section 2 of Act 347, Session Laws of Hawaii 1986, is amended by amending culture and recreation item no. 3 for LNR 801, for fiscal year 1986-87, to read as follows:

“3. HP2901 Kukaniloko Birth Site, Oahu  
[Grant-in-aid:] Acquisition of site and access way.

LAND	55		
TOTAL FUNDING	LNR 55		C”

SECTION 293. Provided that of the general obligation bonds appropriated for capitol building security (ATG 801), the sum of \$33,000 for fiscal year 1987-88 shall be allocated for the design and construction of a security gate in the State Capitol parking garage basement (Punchbowl St. entrance/exit).

SECTION 293. Any law to the contrary notwithstanding, the appropriations under Act 300, Session Laws of Hawaii 1985, Section 136, as amended by Act 345, Session Laws of Hawaii 1986 in the amounts indicated or balance thereof are hereby lapsed:

Item No.	Amount
SOC 407-5B	250,000
HTH 111-1	107,000
TRN 501-42	222,000
AGS 221-3	200,000
AGS 221-4	10,000
AGS 221-5	20,000
AGS 221-5	66,000
AGS 221-23	190,000
AGS 221-27	30,000
UOH 102-74	63,000
UOH 102-75	21,000
PED 107-6	150,000
LNR 806-22	50,000
LNR 806-45	10,000
LNR 806-48A	150,000

SECTION 294. Any law to the contrary notwithstanding, the unencumbered balance of the following appropriations under Act 300, Session Laws of Hawaii 1985, Section 136, as amended by Act 345, Session Laws of Hawaii 1986 in the amounts indicated are lapsed:

Item No.	Amount
EDN 407-53	1,600,000
DEF 110-16	120,000
LNR 806-62	99,000
LNR 806-64	50,000
TRN 305-22A	1,340,000
AGS 221-7	800,000
AGS 221-8	120,000
AGS 221-9	594,000
AGS 221-10	532,000
AGS 221-11	91,000
AGS 221-13	144,000
AGS 221-19	1,593,000
UOH 101-59	340,000
UOH 215-121	800,000
AGR 192-7	400,000
LNR 141-13	40,000
LNR 141-14	30,000
LNR 141-16	375,000
LNR 141-15	30,000
LNR 141-17	700,000
LNR 141-18A	10,000
LNR 404-9	100,000
LNR 801-3	75,000
LNR 801-23	200,000
LNR 801-31	100,000
LNR 801-40	100,000
LNR 801-41	100,000
LNR 801-51	290,000
LNR 801-53	225,000

## ACT 216

**SECTION 295.** Any law to the contrary notwithstanding, the unencumbered balance of the following appropriations under Act 301, Session Laws of Hawaii 1983, Section 80, as amended by Act 285, Session Laws of Hawaii 1984 in the amounts indicated are lapsed:

Item No.	Amount
C-35	378,943
C-41	395,971
C-42	407,470
C-49	525,000
C-53	37,670
C-54	247,000
H-10	140,000
H-18	500,000

### PART V. ISSUANCE OF BONDS

#### **SECTION 296. GOVERNOR'S DISCRETIONARY POWERS.**

When it is deemed in the public interest of the State, the governor, in his discretion, is authorized to use the state general fund to finance capital improvement projects authorized in this Act, where the method of financing is designated to be the general obligation bond fund. Any law or provision to the contrary notwithstanding, the governor may replace general obligation bond funds appropriated for capital improvement projects with general obligation reimbursable bond funds, when the expenditure of such general obligation reimbursable bond funds is deemed appropriate for the project.

**SECTION 297. AIRPORT REVENUE BONDS.** The department of transportation is authorized to issue airport revenue bonds for airport capital investment projects authorized in Part II and listed in Part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond funds with debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the governor, such additional amounts as may be necessary by the department to increase reserves for the airport revenue bonds and to pay the expenses of issuance of such bonds. The aforementioned airport revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of airport revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenue from airports and related facilities under the ownership of the State or operated and managed by the department and the aviation fuel taxes levied and paid pursuant to sections 243-4 (a) (2) and 248-8, Hawaii Revised Statutes, or such parts of either thereof as the department may determine, including rents, landing fees, and other fees or charges presently or hereafter derived from or arising through the ownership, operation, and management of airports and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such airport revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the airport revenue fund.

The governor, in his discretion, is authorized to use the airport revenue fund to finance those projects authorized in Part II and listed in Part IV of this Act where the method of financing is designated to be by airport revenue bond funds.

**SECTION 298. HARBOR REVENUE BONDS.** The department of transportation is authorized to issue harbor revenue bonds for harbor capital investment projects authorized in Part II and listed in Part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond fund with debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the governor, such additional amounts as may be necessary by the department to pay interest on such revenue bonds during the construction period and for six months thereafter, to establish, maintain, or increase reserves for the harbor revenue bonds to pay the expenses of issuance of such bonds. The aforementioned harbor revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of harbor revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenues from harbors and related facilities under the ownership of the state or operated and managed by the department, including rents, mooring, wharfage, dockage, and pilotage fees, and other fees or charges presently or hereafter derived from or arising through the ownership, operation, and management of harbor and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such harbor revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the harbor special fund.

The governor, in his discretion, is authorized to use the harbor revenue fund to finance those projects authorized in part II and listed in Part IV of this Act where the method of financing is designated to be by harbor revenue bond funds.

## **PART VI. SPECIAL PROVISIONS**

**SECTION 299.** Provided that to the extent that the sums appropriated for the payment of principal and interest on general obligation bonds are insufficient to meet and pay all such obligations when due in accordance with the terms of such bonds, the governor shall direct the utilization of any or all appropriations available or unexpended from any other state program for the payment of the principal and interest of the bonds when due; and provided further, that the legislature shall, under procedures established in section 10 of article III of the Hawaii State Constitution, meet in special session to comply with the provisions of section 12 of article VII of the Hawaii State Constitution, which pledge the full faith and credit of the State for the payment of principal and interest on all general obligation and reimbursable general obligation bonds.

**SECTION 300.** Provided that notwithstanding any position ceiling, the governor may transfer positions and funds between existing programs of the state executive branch for the purpose of establishing integrated state-wide data processing and communications systems; provided further that the governor shall submit a report of such transfers; provided further the report shall contain the positions and amounts transferred by each program; provided further that the report shall be submitted to the legislature twenty days prior to the convening of each regular session.

**SECTION 301.** Sand Island income from other lands and facilities, other than those set aside for harbors or foreign trade zone purposes, shall be deposited into the general fund.

## ACT 216

**SECTION 302.** Provided that if federal funds in the amounts designated under the Morrill-Nelson Bankhead-Jones Act, Hatch Act, and Smith-Lever Act are received in excess of the amounts authorized by this Act, then the general fund appropriations for instruction-UOH, Manoa (UOH 101), organized research-UOH, Manoa (UOH 102), and public service-UOH, Manoa (UOH 103), respectively, shall be reduced by the amounts such receipts exceed the federal funds authorized in each year of the fiscal biennium 1987-89.

**SECTION 303.** There is hereby appropriated out of the public trust fund created by section 5(f) of the Admission Act (Public Law No. 86-3) the total amount of the proceeds from the sale or other disposition of any lands, and the income therefrom granted to the State by section 5(b) or later conveyed to the State by section 5(e), with the exception of such proceeds covered under section 171-19, Hawaii Revised Statutes, to be disposed of by the board of land and natural resources, and with the exception of such proceeds to be expended by the office of Hawaiian affairs under chapter 10, Hawaii Revised Statutes, in order to reimburse the general fund for the appropriation made in Part II of this Act to the department of education for the support of public schools, to the extent such proceeds are realized for the period beginning July 1, 1987 to June 30, 1989. The above proceeds shall be exclusive of the amount disposed of under the provisions of the Hawaiian Homes Commission Act of 1920, as amended.

**SECTION 304.** Whenever the expending agency to which an appropriation is made is changed due to legislation enacted during any session of the legislature which affects the appropriations made by this Act, the governor, or the director of finance, if so delegated by the governor, shall transfer the necessary funds and positions to the proper expending agency.

**SECTION 305.** All grants to private organizations in this Act are made in accordance with the standard that the private programs so funded yield direct benefits to the public and accomplish public purposes.

**SECTION 306.** No appropriation authorized in this Act shall be considered to be a mandate, under section 5 of article VIII of the State Constitution, for a political subdivision to undertake new programs to increase the level of services under existing programs of that political subdivision. If any appropriation authorized in this Act falls within the provisions of section 5 of article VIII of the State Constitution, such authorization shall be void and, in the case of capital improvement appropriations designated to be financed from the general obligation bond fund, the total general obligation bonds authorized for such projects shall be correspondingly decreased.

**SECTION 307.** Any law or provision to the contrary notwithstanding, in allotting funds for social welfare programs, education programs, and other programs and agencies having appropriations which are based on population and workload data as specified in the executive budget document, only so much as is necessary to provide the level of services intended by the legislature shall be allotted by the department of budget and finance. For this purpose, agencies concerned shall reduce expenditures below appropriations under procedures prescribed by the department of budget and finance in the event actual population and workload trend is less than the specified figure. In the event that the caseload trend is higher than the specified figure or the reasonable average daily cost of medical care for the needy and medically needy exceeds the anticipated average sum per patient



day, or the caseload trend or average payments for money assistance payments is higher than the specified figure, the governor is authorized to utilize savings as may be available from any other state program for the purpose of meeting the additional expenses of the social welfare program of the department of social services and housing.

**SECTION 308.** With the approval of the director of finance, the department of health may transfer to the department of social services and housing funds appropriated to the department of health for the care and treatment of patients whenever the department of social services and housing can utilize such funds to match federal funds which may be available to help finance the cost of outpatient, hospital, or skilled nursing home care of indigents or medical indigents.

The department of social services and housing is authorized to enter into agreements with the department of health to furnish outpatient, hospital, and skilled nursing home care and to pay the department of health for such care. With the approval of the director of finance, the department of health may deposit part of such receipts into the appropriations from which transfers were made.

**SECTION 309.** Unless otherwise provided in this Act, the governor is authorized to transfer funds between appropriations within an expending agency for operating purposes.

**SECTION 310.** Where a program is financed by the general fund as well as by a source of funding other than the general fund, the general fund appropriation shall be decreased to the extent that the amount received from the non-general fund source exceeds the amount approved in this Act from such source; provided that such decrease of the general fund appropriation shall not jeopardize the receipt of the increased amount from the non-general fund source; provided further that the preceding requirements shall not apply if the excess receipts are to be expended for a purpose or purposes of the program approved by the governor or the director of finance if so delegated by the governor.

**SECTION 311.** For the fiscal biennium 1987-89, where a program is authorized under Part II of this Act to expend from a revolving, special, or trust fund, agencies responsible for such funds are authorized to expend so much as may be necessary to carry out the purpose of each such fund; provided that such expenditures in excess of the amount indicated in Part II are approved by the governor or by the director of finance if so delegated by the governor; and provided further that such expenditure shall not exceed the amounts available in such funds; provided further that a report of such expenditures shall be submitted; provided further that the report shall contain the amounts and their purpose; provided further that the report shall be submitted to the legislature twenty days prior to convening of each regular session.

**SECTION 312.** The governor is hereby authorized to establish fifteen permanent positions during each year of the fiscal biennium 1987-89 to be allocated by him to any of the program areas included in this Act as he shall deem proper.

**SECTION 313.** Any provision of law to the contrary notwithstanding, the governor is authorized to utilize an appropriate portion of such sums included in the respective program appropriation in Part II of this Act for personal services, for salary increases for public officers and employees

## ACT 216

excluded from collective bargaining under chapter 89, Hawaii Revised Statutes; provided that said increases shall be in conformance with chapter 89C, Hawaii Revised Statutes.

**SECTION 314.** Where any agency is able to secure funds or other property from private organizations or individuals, to be expended or utilized in connection with any program authorized by this Act, the governor or agency with the governor's approval shall have the power to enter into each undertaking.

**SECTION 315.** In the event the State should assume the direct operation of any non-governmental agency receiving state funds under the provisions of this Act, all such funds shall constitute a credit to the State against the costs of acquiring all or any portion of the property, real, personal, or mixed, of such non-governmental agency. This credit shall be applicable regardless of when such acquisition takes place.

**SECTION 316.** Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all appropriations made to be expended in fiscal biennium 1987-89 which are unencumbered as of June 30, 1990, shall lapse as of that date; provided further that this lapsing date shall not apply to appropriations in section 280 which are denoted as necessary to qualify for federal aid financing and reimbursement and which appropriations in their entirety the legislature hereby determines are necessary to qualify for federal aid financing and reimbursement.

**SECTION 317.** The designated expending agency for capital investments authorized in this Act is authorized to delegate to other state or county agencies the implementation of such projects when it is determined by such agency that it is advantageous to do so.

**SECTION 318.** All general obligation bond funds used for highway, harbor, boating, airport, parking facilities, land development capital investment purposes, or economic development projects, designated by the letter (D), shall have the bond principal and interest reimbursed from the state highway fund, the harbor special fund, the boating special fund, the airport revenue fund, the parking special fund, the special land and development fund, or the economic development special fund, respectively. Bonds issued for irrigation projects shall be reimbursed, as provided by section 174-21, Hawaii Revised Statutes.

The governor is authorized to use, at his discretion, the state highway fund, the harbor special fund, the boating special fund, the airport revenue fund, the special land and development fund, or the economic development special fund to finance the respective highway, harbor, boating, airport, land development, or economic development projects authorized in this Act, where the method of financing is designated to be general obligation bond fund with debt service cost to be paid from special funds.

**SECTION 319.** Where county capital improvement projects are partially or totally funded by state grants-in-aid as authorized in this Act or any other act of the legislature, this fact should be appropriately acknowledged during construction and upon completion of these projects.

**SECTION 320.** The negotiation for the purchase of land by state agencies shall be subject to the approval of the governor. Private lands may be acquired for the purpose of exchange for federal lands when the governor

determines that such acquisition and exchange are necessary for the completion of any projects authorized by this Act.

**SECTION 321.** If general obligation bond proceeds have been allocated to an appropriation which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such appropriation, the amount of such excess proceeds shall be allocated to the satisfaction of other appropriations which may be satisfied from general obligation bond proceeds made in the same or any other act of the legislature.

**SECTION 322.** Unrequired balances after the objectives of appropriations made in this Act for capital investment purposes from the general obligation bond fund have been met shall be transferred to the project adjustment fund appropriated in Part II and described in Part IV of this Act and shall be considered a supplementary appropriation thereto; provided that all other unrequired allotment balances, unrequired appropriation balances, and unrequired encumbrance balances shall lapse as of June 30, 1990, as provided in section 316 of this Act.

**SECTION 323.** In the event that currently authorized appropriations specified for capital investment projects listed in this Act or in any other Act currently authorized by the legislature are insufficient, and where the source of funding for the project is designated as the general obligation bond fund, the governor may make supplemental allotments from the project adjustment fund appropriated in Part II and described in Part IV of this Act; provided that such supplemental allotments from the project adjustment fund shall not be used to increase the scope of the project; provided further that a report of such supplemental allotments and transfers for the period ending December 31 of each calendar year shall be made to the legislature by February 1 of the following calendar year.

Any provision in this Act to the contrary notwithstanding, allotments from the project adjustment fund may be made to supplement any currently authorized capital investment cost elements.

**SECTION 324.** In the event that the amount specified for a capital investment project listed in this Act is insufficient and where the source of funding is designated as special funds, general obligation bond fund with debt service cost to be paid from special funds, or revenue bond fund, the governor may make supplemental allotments from the special fund responsible for cash or debt service payments for the projects or transfer unrequired balances from other unlapsed projects in this or prior appropriation acts which authorized the use of special funds, general obligation bond fund with debt service costs to be paid from special funds, or revenue bond fund; provided that such supplemental allotments shall not be used to increase the scope of the project; provided further that such supplemental allotments shall not impair the ability of the fund to meet the purposes for which it was established.

**SECTION 325.** The governor may authorize the expenditure of funds for capital investment projects not previously authorized in this Act to cope with unemployment, unforeseen emergencies arising from elements such as fires and natural disasters and for any federal aid portion of any capital investment project described in this Act where application for such aid has been made and approval has been denied; provided that the unemployment, or such emergencies, or denial of federal aid create an urgent need to pursue a course of action which is in the best interest of the State; provided further

## ACT 216

that the governor shall use the project adjustment fund authorized in Part II and described in Part IV to accomplish the purposes of this section.

SECTION 326. General revenues of the State of Hawaii as provided by this section may be expended by the governor to cope with unemployment and unforeseen emergencies arising from elements such as fires and natural disaster; provided that the unemployment, or such emergencies create an urgent need to pursue a course of action which is in the best interest of the State; provided further that the governor may authorize an increase in repairs and maintenance activities on state grounds and facilities to alleviate the unemployment and cope with such emergencies. To accomplish the purpose of this section, the governor is authorized to transfer to the building, repair and alterations (AGS 233), the physical plant operations and maintenance (AGS 807), and to any other appropriate programs up to \$5,000,000 in savings as may be available from the appropriated funds of any program in this Act.

SECTION 327. Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a capital investment project described in this Act, the governor may authorize such reduction of project scope; provided that the scope of a project shall not be reduced merely because the appropriation for a project is insufficient.

SECTION 328. In releasing funds for capital projects, the governor shall consider the legislative intent and the objectives of the user agency and its programs, the scope and level of the user agency's intended service, and the means, efficiency, and economics by which the project will meet the objectives of the user agency and the state. Agencies responsible for construction shall take into consideration the objectives of the user agency, its programs, the scope and level of the user agency's intended service and construct the improvement to meet the objectives of the user agency in the most efficient and economical manner possible.

SECTION 329. The governor is hereby authorized to establish fifteen temporary positions in each year of the fiscal biennium to be funded by savings as determined to be available from any program included in this Act. These positions shall be exempt from the provisions of chapters 76 and 77, Hawaii Revised Statutes.

SECTION 330. Any law or any provision to the contrary notwithstanding, the Governor may supplement funds for any early-phased cost element for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds appropriated for later-phased cost elements for the same project authorized by the legislature in this Act or in a prior year or which may be authorized by the legislature in the future, provided that the total expenditure of funds for all cost elements for the project shall not exceed the total appropriations for that project.

SECTION 331. Provided that revenue bonds may be issued by the Hawaii housing authority pursuant to Part I, Chapter 356, Hawaii Revised Statutes, and Part III, Chapter 39, Hawaii Revised Statutes, in an aggregate principal amount not to exceed \$25,000,000 at such times and in such amounts as it deems advisable for the purpose of refinancing any rental housing projects developed under Chapters 356 and 359G, Hawaii Revised Statutes.

**PART VII. MISCELLANEOUS AND EFFECTIVE DATE**

**SECTION 332. MISCELLANEOUS.** If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

**SECTION 333.** In the event manifest clerical, typographical or other mechanical errors are found in this Act, the governor is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

**SECTION 334. EFFECTIVE DATE.** This Act shall take effect on July 1, 1987.

(Approved June 22, 1987.)

**Note**

1. Item vetoed and initialed "JW".

**ACT 217**

S.B. NO. 1660

A Bill for an Act Relating to Capital Improvement Projects.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** This act shall be known and may be cited as the General Improvements Act of 1987.

**SECTION 2.** The following sums or so much thereof as shall be sufficient to finance the projects listed in this Act, are appropriated or authorized, as the case may be for fiscal year 1987-88, to be expended by the department of accounting and general services, unless otherwise specified, out of moneys in the treasury received from general obligation bond funds.

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F

**ECONOMIC DEVELOPMENT**

**PED102 - COMMERCE AND INDUSTRY**

1. SP2002 RESEARCH AND TECH PARK UH, HILO, HAWAII.

DESIGN, CONSTRUCTION AND EQUIPMENT FOR INFRASTRUCTURE IMPROVEMENT AT UHH MAUKA CAMPUS SITE TO ACCOMMODATE THE

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		FUTURE DEVELOPMENT AND EXPANSION ON UHH'S ACADEMIC PROGRAM, INCLUDING A RESEARCH-TECH PARK.					
		CONSTRUCTION		110			
		TOTAL FUNDING	UOH	110C			C
<b>PED120 - ENERGY DEVELOPMENT AND MANAGEMENT</b>							
2.		HP0505 NELH BUILDING ENTRANCE AT KEAHOLE, HAWAII.					
		AQUARIUM TANK DISPLAY.					
		CONSTRUCTION		10			
		TOTAL FUNDING	PED	10C			C
3.		SP0203 NATURAL ENERGY LABORATORY OF HAWAII, KONA, HAWAII.					
		PLANS AND DESIGN OF A OCEAN AND MARINE UTILIZATION LABORATORY FACILITY.					
		PLANS		20			
		LAND		20			
		TOTAL FUNDING	PED	40C			C
4.		SP2001 NELH, KONA, AND OTHER MARINE RESEARCH CENTERS IN THE STATE OF HAWAII.					
		DESIGN AND CONSTRUCTION OF FIN FISH REARING TANKS AND FACILITIES.					
		DESIGN		50			
		CONSTRUCTION		50			
		TOTAL FUNDING	PED	100C			C
<b>LNR141 - WATER DEVELOPMENT &amp; IRRIGATION SERVICES</b>							
5.		HP0606 KEANAE FLUME REPAIR, KEANAE, MAUI.					
		REPAIR OF EXISTING FLUME.					
		CONSTRUCTION		15			
		TOTAL FUNDING	LNR	15C			C
6.		HP0706 KULA WATER SYSTEM, MAUI.					
		SOURCE AND SYSTEM DEVELOPMENT.					
		DESIGN		32			
		TOTAL FUNDING	LNR	32C			C
7.		JP0514 MOLOKAI IRRIGATION SYSTEM, HOOLEHUA, MOLOKAI.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)				
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F	
		IMPROVEMENT TO SYSTEM, HOOLEHUA, MOLOKAI. CONSTRUCTION				10 10C		C
		TOTAL FUNDING	LNR					
8.	SP1201	PALOLO VALLEY WATER IMPROVE- MENTS, OAHU.						
		PLANS AND ENGINEERING FOR WATER IMPROVEMENTS. PLANS DESIGN				125 125		
		TOTAL FUNDING	AGS			250C		C
9.	SP0205	WATER DEVELOPMENT PROJECT, HAWAII.						
		PLANS AND DESIGN OF A PROJECT TO DEVELOP WATER RESOURCES ON THE EAST-SIDE OF THE BIG ISLAND AND TRANSPORT THAT WATER OVER THE SADDLE, THROUGH POHAKULOA, TO SUPPLY THE WAIMEA, WAIKOLOA, KOHALA WATER REQUIREMENTS. PLANS				250 250C		C
		TOTAL FUNDING	LNR					
TRANSPORTATION FACILITIES								
TRN141 - MOLOKAI AIRPORT FACILITIES AND SER- VICES								
1.	JP0512	MOLOKAI AIRPORT, MOLOKAI.						
		CONSTRUCTION OF INFORMATION BOOTH AT MOLOKAI AIRPORT. CONSTRUCTION				4		
		TOTAL FUNDING	TRN			4C		C
TRN331 - KAHULUI HARBOR FACILITIES AND SER- VICES								
2.	SP0404	KAHULUI BOAT RAMP, MAUI.						
		CONSTRUCT MODIFICATIONS TO RAMP, TURNING BASIN AND ACCESS CHANNEL, INSTALLATION OF WATER- LINE, AND PAVEMENT FOR WASHDOWN AREAS. DESIGN				15		
		CONSTRUCTION				75		
		TOTAL FUNDING	TRN			90C		C
TRN501 - OAHU HIGHWAYS AND SERVICES								
3.	SP1908	ALA KAPUNA OVERPASS, MOANALUA VALLEY, OAHU.						

ACT 217

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		INSTALLATION OF TRAFFIC SIGNALS AT THE ALA KAPUNA MOANALUA ROAD OVERPASS.					
		CONSTRUCTION		110			
		TOTAL FUNDING	TRN	110C			C
4.	HP4001	CROSSWALK AND TRAFFIC LIGHT AT JARRET AND MAHIOLE, MOANALUA, OAHU.					
		CROSSWALK AND TRAFFIC LIGHT AT THE INTERSECTION OF JARRET WHITE AND MAHIOLE.					
		DESIGN		2			
		CONSTRUCTION		18			
		TOTAL FUNDING	TRN	20C			C
5.	JP2320	EMERGENCY TELEPHONES ON INTER-STATE H-1/FARR. HWY-WAIAWA INTER-CHANGE TO NANAKULI					
		DESIGN, CONSTRUCTION, FOR THE INSTALLATION OF THE EMERGENCY TELEPHONE SYSTEM ALONG THE INTERSTATE H-1 AND FARRINGTON HIGHWAY FROM WAIAWA INTER-CHANGE TO NANAKULI.					
		DESIGN		11			
		CONSTRUCTION		108			
		TOTAL FUNDING	TRN	119C			C
6.	SP2406	FARRINGTON HIGHWAY ROAD REALIGNMENT, OAHU.					
		PLANS AND DESIGN FOR ROAD REALIGNMENT ALONG FARRINGTON HIGHWAY FRONTING MAKAHA BEACH PARK.					
		CONSTRUCTION		25			
		TOTAL FUNDING	TRN	25C			C
7.	JP2405	FARRINGTON HIGHWAY, WAIANAE, OAHU.					
		DESIGN AND CONSTRUCTION OF SIDEWALK ALONG FARRINGTON HIGHWAY.					
		DESIGN		5			
		CONSTRUCTION		67			
		TOTAL FUNDING	TRN	72C			C
8.	HP4505	FARRINGTON HIGHWAY, WAIPAHU, OAHU.					
		CONCRETE SIDEWALK ON FARRINGTON HIGHWAY IN WAIPAHU, OAHU.					
		DESIGN		2			
		CONSTRUCTION		143			
		TOTAL FUNDING	TRN	145C			C



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
9.	SP2402	FARRINGTON HIGHWAY AND JOHN'S ROAD TRAFFIC SIGNALS, OAHU.					
		DESIGN AND CONSTRUCTION OF TRAFFIC SIGNALS AT FARRINGTON HIGHWAY AND JOHN'S ROAD.					
		DESIGN		10			
		CONSTRUCTION		90			
		TOTAL FUNDING	TRN	100C			C
10.	HP1502	KAHEKILI HIGHWAY, AHUIMANU PLACE TO KAMEHAMEHA HIGHWAY, OAHU.					
		LIGHTING ALONG KAHEKILI HIGHWAY.					
		DESIGN		9			
		CONSTRUCTION		81			
		TOTAL FUNDING	TRN	90C			C
11.	HP2306	KALANIANAOLE HIGHWAY IMPROVEMENTS, OAHU.					
		PEDESTRIAN SAFETY PLAN AND OTHER IMPROVEMENTS INCLUDING GUARD RAILS.					
		PLANS		5			
		CONSTRUCTION		10			
		TOTAL FUNDING	TRN	15C			C
12.	SP0814	KAMEHAMEHA HIGHWAY LANE EXTENSION, OAHU.					
		DESIGN AND CONSTRUCTION FOR THE EXTENSION OF THE KAILUA-BOUND, LEFT TURN ONLY LANE FROM THE INTERSECTION OF LIKE-LIKE HIGHWAY AND KAMEHAMEHA HIGHWAY TO THE KAPALAI ROAD INTERSECTION.					
		DESIGN		5			
		CONSTRUCTION		40			
		TOTAL FUNDING	TRN	45C			C
13.	SP0609	KAMEHAMEHA HIGHWAY, OAHU.					
		FEASIBILITY STUDY FOR CONSTRUCTION OF CONTRA-FLOW LANES ALONG KAMEHAMEHA HIGHWAY, MILILANI TO H-1; H-1, WAIAWA INTERCHANGE TO AIRPORT; MOANALUA FREEWAY - MOANALUA ROAD IN THE MOANALUA PARK-FORT SHAFTER-MIDDLE STREET AREA.					
		CONSTRUCTION		52			
		TOTAL FUNDING	TRN	52C			C
14.	JP0703	KAMEHAMEHA HIGHWAY STREET LIGHTS, MALAEKAHANA, OAHU.					

ACT 217

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN AND CONSTRUCTION OF STREETLIGHTS FROM LAIE BRIDGE TO MALAEKAHANA BRIDGE.					
		DESIGN			10		
		CONSTRUCTION			80		
		TOTAL FUNDING	TRN		90C		C
15.	HP1409	KAMEHAMEHA HIGHWAY STREET LIGHTS, POAMOHO, OAHU.					
		STREET LIGHTS ON HALEIWA SIDE OF BRIDGE AT POAMOHO TO THE DOLE PINEAPPLE PAVILION AT HALEMANO.					
		DESIGN			10		
		CONSTRUCTION			16		
		TOTAL FUNDING	TRN		26C		C
16.	HP1704	KANEOHE BAY DRIVE, OAHU.					
		WIDEN KANEOHE BAY DRIVE.					
		PLANS			10		
		DESIGN			20		
		CONSTRUCTION			25		
		TOTAL FUNDING	TRN		55C		C
17.	HP1304	LEILEHUA GOLF COURSE ROAD, OAHU.					
		ON-RAMP TO THE H-2.					
		PLANS			15		
		DESIGN			35		
		TOTAL FUNDING	TRN		50C		C
18.	JP0812	LIKELIKE HIGHWAY EMERGENCY TELEPHONES, OAHU.					
		INSTALLATION OF EMERGENCY TELEPHONES.					
		PLANS			5		
		DESIGN			7		
		CONSTRUCTION			32		
		EQUIPMENT			10		
		TOTAL FUNDING	TRN		54C		C
19.	SP0813	LIKELIKE HIGHWAY REVERSIBLE LANES, OAHU.					
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR CREATION OF REVERSIBLE LANES ON LIKELIKE HIGHWAY DURING PEAK TRAFFIC HOURS.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			48		
		EQUIPMENT			40		
		TOTAL FUNDING	TRN		90C		C
20.	SP0811	LIKELIKE HIGHWAY STREETLIGHTS, OAHU.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN AND CONSTRUCTION OF STREETLIGHTS ON LIKELIKE HIGHWAY FROM THE WILSON TUNNEL TO VALLEY VIEW ROAD.					
		DESIGN		5			
		CONSTRUCTION		30			
		TOTAL FUNDING	TRN	35C			C
21.	SP0301	NEW SIDEWALKS, HANA, MAUI.					
		PLANS, DESIGN AND CONSTRUCTION OF NEW SIDEWALKS EXTENDING 3/4 MILE FROM HANA ELEMENTARY AND HIGH SCHOOL.					
		DESIGN		14			
		CONSTRUCTION		181			
		TOTAL FUNDING	TRN	195C			C
22.	HP2001	SADDLE CITY ROAD, WAIMANALO, OAHU.					
		PAVED RIGHT-OF-WAY ROAD OVER THE EXISTING UNIMPROVED ROAD OFF KALANIANA'OLE HIGHWAY TO THE AREA KNOWN AS SADDLE CITY.					
		DESIGN		50			
		TOTAL FUNDING	TRN	50C			C
23.	HP4805	TRAFFIC SIGNAL AT KAUKAMANA STREET, MAILI, OAHU.					
		TRAFFIC SIGNAL AT KAUKAMANA STREET AND FARRINGTON HIGHWAY.					
		PLANS		10			
		CONSTRUCTION		100			
		TOTAL FUNDING	TRN	110C			C
24.	HP3401	VINEYARD BOULEVARD AND AALA STREET, OAHU.					
		PEDESTRIAN OVERPASS AT VINEYARD BOULEVARD AND AALA STREET.					
		DESIGN		5			
		TOTAL FUNDING	TRN	5C			C
<b>TRN511 - HAWAII HIGHWAYS AND SERVICES</b>							
25.	HP0404	KANOELEHUA AVENUE WIDENING, HILO, HAWAII.					
		ADD ANOTHER LANE BY WIDENING KANOELEHUA AVENUE FROM KAMEHAMEHA AVENUE TO PUAINAKO STREET.					
		CONSTRUCTION		50			
		TOTAL FUNDING	TRN	50C			C
26.	HP0406	PAHOA-KALAPANA ROAD, ROUTE 130, VICINITY OF KAMAILI ROAD INTERSECTION.					

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		INSTALLATION OF GUARDRAILS ALONG THE PAHOA-KALAPANA ROAD, ROUTE 130, VICINITY OF KAMAILI ROAD INTERSECTION.			
		DESIGN		3	
		CONSTRUCTION		27	
		TOTAL FUNDING	TRN	30C	C
27.	HP0405	PUAINAKO STREET EXTENSION, HAWAII.			
		EXTEND PUAINAKO STREET TO KAUMANA STREET, HILO, HAWAII.			
		CONSTRUCTION		85	
		TOTAL FUNDING	TRN	85C	C
28.	SP0101	SOUTH KONA ROAD, HAWAII.			
		HEAVY EQUIPMENT FOR SOUTH KONA ROAD CREW.			
		EQUIPMENT		45	
		TOTAL FUNDING	TRN	45C	C
29.	HP0407	STREET LIGHTS, 4TH REPRESENTATIVE DISTRICT, HAWAII.			
		STREET LIGHTS, 4TH REPRESENTA- TIVE DISTRICT, HAWAII.			
		CONSTRUCTION		50	
		TOTAL FUNDING	TRN	50C	C
30.	HP0201	TRAFFIC SIGNAL FOR KAWILI AND KAPIOLANI STREETS, HILO, HAWAII.			
		TRAFFIC SIGNAL SYSTEM TO IM- PROVE SCHOOL AND PUBLIC TRAFFIC IN THE VICINITY OF WAIAKEA HIGH SCHOOL AND THE UNIVERSITY OF HAWAII-HILO.			
		DESIGN		50	
		CONSTRUCTION		225	
		TOTAL FUNDING	TRN	275C	C
31.	HP0604	WAIMEA KAWAIHAE BYPASS ROAD, WAIMEA, HAWAII.			
		UPDATE DESIGN TO ALLOW PROJECT TO PROCEED.			
		DESIGN		30	
		TOTAL FUNDING	TRN	30C	C
<b>TRN531 - MAUI HIGHWAYS AND SERVICES</b>					
32.	SP0517	BIKE PATH, LAHAINA, WEST MAUI.			
		PLANS AND CONSTRUCTION OF A BIKE PATH IN LAHAINA.			
		PLANS		5	
		CONSTRUCTION		95	
		TOTAL FUNDING	TRN	100C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
33.	HP1011	HONOAPIILANI HIGHWAY BYPASS, LAHAINA, MAUI.  HIGHWAY BYPASS. DESIGN				50	
		TOTAL FUNDING	TRN			50C	C
34.	HP0805	KAHULUI BEACH ROAD, MAUI.  KAHULUI BEACH ROAD DRAINAGE IMPROVEMENT AT WAIIEHU BEACH ROAD AND KAHULUI BEACH ROAD INTERSECTION. CONSTRUCTION				95	
		TOTAL FUNDING	TRN			95C	C
35.	HP1012	KAMEHAMEHA V HIGHWAY, EAST MOLOKAI.  IMPROVEMENT TO ROAD. CONSTRUCTION				5	
		TOTAL FUNDING	TRN			5C	C
36.	HP0804	PUUNENE AVENUE, KAHULUI, MAUI.  CONCRETE SIDEWALKS ON BOTH SIDES OF PUUNENE AVENUE FROM PUUKANI STREET TO KAMEHAMEHA AVENUE. CONSTRUCTION				125	
		TOTAL FUNDING	TRN			125C	C
37.	SP0521	NEW SIDEWALK, LAHAINA, MAUI.  CONSTRUCTION OF SIDEWALK BE- TWEEN LAHAINA INTERMEDIATE SCHOOL AND LAHAINALUNA HIGH SCHOOL FROM KUHUA STREET TO KALENA STREET. CONSTRUCTION				15	
		TOTAL FUNDING	TRN			15C	C
38.	HP0702	TRAFFIC LIGHT, HALEAKALA HIGHWAY AND MAKAWAO AVENUE, MAUI.  TRAFFIC LIGHT AT HALEAKALA HIGHWAY AND MAKAWAO AVENUE. DESIGN				30	
		TOTAL FUNDING	TRN			30C	C
<b>TRN541 - MOLOKAI HIGHWAYS AND SERVICES</b>							
39.	SP0511	KAMEHAMEHA V HIGHWAY, EAST MOLOKAI.  CONSTRUCTION TO IMPROVE KAMEHAMEHA V HIGHWAY, EAST MOLOKAI. CONSTRUCTION				5	
		TOTAL FUNDING	TRN			5C	C

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89

**TRN561 - KAUAI HIGHWAYS AND SERVICES**

40. JP2417 KUHIO HIGHWAY SAFETY IMPROVEMENTS, KAUAI.

DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO KUHIO HIGHWAY.

DESIGN			20	
CONSTRUCTION			175	
TOTAL FUNDING	TRN		195C	C

**ENVIRONMENTAL PROTECTION**

**LNR402 - FORESTS AND WILDLIFE RESOURCES**

1. HP1009 KAMAKOU PRESERVE, MOLOKAI.

BOARDWALK AT PEPEOPAE BOG, KAMAKOU PRESERVE, MOLOKAI, BY THE NATURE CONSERVANCY OF HAWAII.

CONSTRUCTION			5	
TOTAL FUNDING	LNR		5C	C

**HEALTH**

**HTH214 - KOHALA HOSPITAL**

1. HP0609 KOHALA HOSPITAL, KOHALA, HAWAII.

ENLARGE EMERGENCY ROOM IN ORDER TO RELOCATE THE NURSES' STATION.

DESIGN			1	
CONSTRUCTION			24	
TOTAL FUNDING	AGS		25C	C

**HTH221 - MAUI MEMORIAL HOSPITAL**

2. HP0802 MAUI MEMORIAL HOSPITAL, WAILUKU, MAUI.

CONSTRUCTION OF CONCRETE SIDEWALK TO THE PSYCHIATRIC WARD.

CONSTRUCTION			10	
TOTAL FUNDING	AGS		10C	C

3. HP0801 MAUI MEMORIAL HOSPITAL, WAILUKU, MAUI.

COMPLETE SECURITY, FENCING FOR ACUTE PSYCHIATRIC PATIENTS RECREATION AREA.

CONSTRUCTION			15	
TOTAL FUNDING	AGS		15C	C

**HTH242 - LEAHI HOSPITAL**

4. SP1301 LEAHI HOSPITAL RENOVATIONS, OAHU.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F

PLANS AND CONSTRUCTION FOR ADDITIONS, RENOVATIONS, AND MODERNIZATION OF YOUNG BUILDING.

PLANS				10			
DESIGN				10			
CONSTRUCTION				155			
TOTAL FUNDING			HTH	175C			C

HTH501 - COMMUNITY BASED SERVICES FOR DD

5. SP1304 SPECIAL EDUCATION CENTER OF OAHU, OAHU.

DESIGN, PLANS AND CONSTRUCTION FOR RENOVATION OF FOUR NEW CLASSROOMS AND TWO PRESENT CLASSROOMS.

PLANS				6			
DESIGN				39			
CONSTRUCTION				68			
EQUIPMENT				15			
TOTAL FUNDING			HTH	128C			C

HTH907 - GENERAL ADMINISTRATION

6. SP0204 WAIAKEA HEALTH CENTER, HAWAII.

DESIGN AND CONSTRUCTION FOR THE ADDITION, RENOVATION, OF AIR-CRAFT NOISE ABATEMENT OF THE WAIAKEA HEALTH CENTER.

DESIGN				40			
CONSTRUCTION				165			
TOTAL FUNDING			HTH	205C			C

SUB601 - PRIVATE HOSPITALS & MEDICAL SERVICES

7. HP1503 KAHUKU HOSPITAL, PHASE II, OAHU.

RENOVATION OF ROTHWELL WING.

GRANTS-IN-AID.

DESIGN				15			
CONSTRUCTION				135			
TOTAL FUNDING			HTH	150C			C

8. SP0705 KAHUKU HOSPITAL, OAHU.

PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A MAMMOGRAPHY AND DIAGNOSTIC ULTRASOUND FACILITY.

PLANS				2			
DESIGN				3			
CONSTRUCTION				25			
EQUIPMENT				85			
TOTAL FUNDING			HTH	115C			C

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
9.	JP2404	WAIANAE COMPREHENSIVE HEALTH CENTER, MENTAL HEALTH FACILITY, WAIANAE, OAHU.					
		EXPANSION AND RENOVATION OF THE WAIANAE COAST COMPREHENSIVE HEALTH CENTER FACILITY FOR MENTAL HEALTH BUILDING.					
		PLANS			20		
		DESIGN			20		
		CONSTRUCTION			40		
		TOTAL FUNDING	AGS		80C		C
<b>SOCIAL SERVICES</b>							
<b>SOC220 - RENTAL HOUSING AUGMENTATION AND ASSISTANCE</b>							
1.	HP3405	KALANIHUIA ELDERLY HOUSING PROJECT, OAHU.					
		REPLACEMENT OF CENTRAL LOBBY DOOR LOCK.					
		CONSTRUCTION			2		
		TOTAL FUNDING	HHA		2C		C
2.	HP3404	KALANIHUIA ELDERLY HOUSING PROJECT, OAHU.					
		REPLACE EXTERIOR LIGHT FIXTURES IN THE LOBBY.					
		CONSTRUCTION			2		
		TOTAL FUNDING	HHA		2C		C
3.	HP3403	KALANIHUIA ELDERLY HOUSING PROJECT, OAHU.					
		REPAVING AND RESURFACING OF PARKING LOT AND RESTORE SPEED BUMPS.					
		CONSTRUCTION			23		
		TOTAL FUNDING	HHA		23C		C
4.	HP3906	KAMEHAMEHA HOMES AND KAAHUMANU HOUSING, OAHU.					
		RENOVATION OF EXISTING FACILITIES.					
		CONSTRUCTION			20		
		TOTAL FUNDING	HHA		20C		C
5.	HP3408	MAKAMAE ELDERLY HOUSING PROJECT, OAHU.					
		INSTALLATION OF CEILING FANS IN THE COMMUNITY HALL.					
		CONSTRUCTION			2		
		TOTAL FUNDING	HHA		2C		C



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
6.	HP3407	MAKAMAE ELDERLY HOUSING PROJECT, OAHU.					
		REPLACE/REPAIR BUILDING VENTILATORS.					
		CONSTRUCTION			2		
		TOTAL FUNDING	HHA		2C		C
7.	HP3406	MAKAMAE ELDERLY HOUSING PROJECT, OAHU.					
		INSTALLATION OF ELECTRICAL SMOKE DETECTORS IN EACH OF THE 124 UNITS.					
		CONSTRUCTION			12		
		TOTAL FUNDING	HHA		12C		C
8.	HP2503	PALOLO HOUSING, OAHU.					
		RODENT CONTROL AND ERADICATION.					
		CONSTRUCTION			50		
		TOTAL FUNDING	HHA		50C		C
<b>HHL602 - PLANNG, DEV, MGT &amp; GEN SPPT FOR HAWN HMSTDS</b>							
9.	HP4906	ANAHOLA PARK, ANAHOLA, KAUAI.					
		PATIO ALONGSIDE EXISTING PARK BUILDING.					
		DESIGN			5		
		CONSTRUCTION			27		
		TOTAL FUNDING	HHL		32C		C
10.	HP0603	KUHIO HALE, WAIMEA, HAWAII.					
		INSTALLATION OF NOISE ABATEMENT.					
		CONSTRUCTION			50		
		TOTAL FUNDING	AGS		50C		C
11.	HP1018	PALAAU ROAD, HOOLEHUA, MOLOKAI.					
		GRADING AND ROAD IMPROVEMENTS TO PALAAU ROAD, MOLOKAI.					
		CONSTRUCTION			3		
		TOTAL FUNDING	HHL		3C		C
<b>FORMAL EDUCATION</b>							
<b>EDN105 - REGULAR INSTRUCTION PROGRAM</b>							
1.	JP0809	AHUIMANU ELEMENTARY SCHOOL, OAHU.					
		CONSTRUCTION FOR UPGRADE AND CONVERSION OF CLASSROOMS.					
		CONSTRUCTION			34		
		TOTAL FUNDING	AGS		34C		C

ACT 217

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
2.	HP4201	AIEA ELEMENTARY SCHOOL, OAHU. COVERED WALKWAY BETWEEN BUILDINGS B AND C.					
		DESIGN			4		
		CONSTRUCTION			10		
		TOTAL FUNDING	AGS		14C		C
3.	JP2101	AIEA ELEMENTARY SCHOOL, OAHU. DESIGN AND CONSTRUCTION OF COVERED WALKWAY BETWEEN BUILDINGS C & F.					
		DESIGN			8		
		CONSTRUCTION			20		
		TOTAL FUNDING	AGS		28C		C
4.	HP4105	AIEA HIGH SCHOOL, OAHU. INSTALLATION OF WIRE SECURITY SCREENS ON THE FIRST FLOOR WINDOWS OF BUILDING J.					
		DESIGN			7		
		CONSTRUCTION			20		
		TOTAL FUNDING	AGS		27C		C
5.	JP2102	AIEA INTERMEDIATE SCHOOL, OAHU. DESIGN AND CONSTRUCTION FOR GROUNDS IMPROVEMENT AND DRAINAGE SYSTEM TO CANAL SEPARATING PHYSICAL EDUCATION BUILDING AND UPPER FIELD.					
		CONSTRUCTION			132		
		TOTAL FUNDING	AGS		132C		C
6.	HP2201	AINA HAINA ELEMENTARY SCHOOL, OAHU. COVERED WALKWAYS BETWEEN: CLASSROOM BUILDING E AND CLASSROOM BUILDING D; CLASSROOM BUILDING A AND ADMINISTRATION BUILDING; AND CLASSROOM BUILDING A AND CAFETORIUM.					
		PLANS			5		
		DESIGN			5		
		CONSTRUCTION			90		
		TOTAL FUNDING	AGS		100C		C
7.	HP2304	AINA HAINA ELEMENTARY SCHOOL, OAHU. COVERED WALKWAYS, ENCLOSED CLASSROOM LANAIS, CENTRAL AIR-CONDITIONING SYSTEM FOR TEACHERS' WORKROOM, AND CAFETORIUM INCLUDING TEACHERS' DINING ROOM.					
		DESIGN			5		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		CONSTRUCTION EQUIPMENT		40	
		TOTAL FUNDING	AGS	5	
				50C	C
8.	SP1501	ALA WAI ELEMENTARY SCHOOL.			
		PHASE II OF PROJECT INITIATED IN 1986 CIP TO REPLACE ALL TRANSOM-TYPE WINDOWS WITH WOODEN LOUVRES IN ALL BUILDINGS.			
		DESIGN		5	
		CONSTRUCTION		110	
		TOTAL FUNDING	AGS	115C	C
9.	SP1502	ALA WAI ELEMENTARY SCHOOL, OAHU.			
		RE-ROOFING OF ALL SCHOOL BUILDINGS TO INCLUDE SELECTIVE GUT-TER REPLACEMENT.			
		DESIGN		2	
		CONSTRUCTION		73	
		TOTAL FUNDING	AGS	75C	C
10.	HP4002	ALIAMANU ELEMENTARY SCHOOL, MOANALUA, OAHU.			
		CLASSROOM PARTITIONS IN BUILDINGS A AND B.			
		DESIGN		2	
		CONSTRUCTION		18	
		TOTAL FUNDING	AGS	20C	C
11.	HP3901	ALIAMANU ELEMENTARY, OAHU.			
		PORTABLE CLASSROOM RE-DESIGN AND CONSTRUCTION ON THE DIAMOND HEAD AREA OF THE SCHOOL CAMPUS.			
		DESIGN		4	
		CONSTRUCTION		20	
		TOTAL FUNDING	AGS	24C	C
12.	HP3902	ALIAMANU INTERMEDIATE, OAHU.			
		SPRINKLER SYSTEM.			
		DESIGN		4	
		CONSTRUCTION		70	
		TOTAL FUNDING	AGS	74C	C
13.	SP0603	AUGUST AHREN ELEMENTARY SCHOOL, OAHU.			
		PLAN, DESIGN, AND CONSTRUCTION OF ASPHALT CONCRETE WALKWAY.			
		CONSTRUCTION		90	
		TOTAL FUNDING	AGS	90C	C
14.	SP0604	AUGUST AHRENS ELEMENTARY SCHOOL, OAHU.			

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		PLAN, DESIGN, AND CONSTRUCTION OF AUTOMATIC SPRINKLER SYSTEM.					
		CONSTRUCTION		50			
		TOTAL FUNDING	AGS	50C			C
15.	HP0904	BALDWIN HIGH SCHOOL, MAUI.					
		IMPROVEMENTS.					
		CONSTRUCTION		40			
		TOTAL FUNDING	AGS	40C			C
16.	HP2002	BLANCHE POPE ELEMENTARY SCHOOL, WAIMANALO, OAHU.					
		INSTALLATION OF SECURITY SCREENS ON ALL GROUND FLOOR WINDOWS AND CONSTRUCTION OF A STRONG-ER BACK GATE.					
		PLANS		5			
		DESIGN		5			
		CONSTRUCTION		89			
		TOTAL FUNDING	AGS	99C			C
17.	SP2304	CAMPBELL HIGH SCHOOL, OAHU.					
		DESIGN AND CONSTRUCT THREE CHAIN LINK GATES FOR EXISTING FENCE.					
		PLANS		2			
		DESIGN		1			
		TOTAL FUNDING	AGS	3C			C
18.	HP4606	CAMPBELL HIGH SCHOOL, EWA BEACH, OAHU.					
		FIRE ALARM SYSTEM.					
		DESIGN		3			
		CONSTRUCTION		17			
		TOTAL FUNDING	AGS	20C			C
19.	HP4604	CAMPBELL HIGH SCHOOL, EWA BEACH, OAHU.					
		LIGHTS ALONG THE ROADWAY LEADING TO THE FOOTBALL FIELD.					
		DESIGN		6			
		CONSTRUCTION		36			
		TOTAL FUNDING	AGS	42C			C
20.	JP2302	CAMPBELL HIGH SCHOOL, EWA BEACH, OAHU.					
		PLAN, DESIGN, AND CONSTRUCT THE REALIGNMENT OF THE BASEBALL FIELD.					
		DESIGN		4			
		CONSTRUCTION		29			
		TOTAL FUNDING	AGS	33C			C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
21.	JP2301	CAMPBELL HIGH SCHOOL, EWA BEACH, OAHU.			
		PLAN, DESIGN, AND CONSTRUCT RENOVATION AND EXTENSION IMPROVEMENTS TO THE INDUSTRIAL ARTS BUILDING, #N.			
		DESIGN		60	
		CONSTRUCTION		240	
		TOTAL FUNDING	AGS	300C	C
22.	JP2303	CAMPBELL HIGH SCHOOL, EWA BEACH, OAHU.			
		PLAN AND DESIGN RESTROOM FACILITIES AT THE BASEBALL FIELD.			
		DESIGN		30	
		TOTAL FUNDING	AGS	30C	C
23.	HP4605	CAMPBELL HIGH SCHOOL, EWA BEACH, OAHU.			
		SECURITY SCREENS.			
		DESIGN		3	
		CONSTRUCTION		17	
		TOTAL FUNDING	AGS	20C	C
24.	HP1701	CASTLE HIGH SCHOOL, OAHU.			
		RENOVATION OF CASTLE HIGH SCHOOL GYM.			
		CONSTRUCTION		40	
		TOTAL FUNDING	AGS	40C	C
25.	SP0802	CASTLE HIGH SCHOOL, OAHU.			
		DESIGN AND CONSTRUCTION OF A COVERED WALKWAY BETWEEN BUSINESS CLASSROOM BUILDINGS M AND N AND THE CAFETORIUM.			
		PLANS		1	
		DESIGN		5	
		CONSTRUCTION		34	
		TOTAL FUNDING	AGS	40C	C
26.	HP1702	CASTLE HIGH SCHOOL, OAHU.			
		BUILDING J.			
		PLANS		20	
		DESIGN		40	
		TOTAL FUNDING	AGS	60C	C
27.	HP3412	CENTRAL INTERMEDIATE SCHOOL, OAHU.			
		COUNTER AND SINK FOR HEALTH ROOM.			
		CONSTRUCTION		10	
		TOTAL FUNDING	AGS	10C	C

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
28.	SP1711	CENTRAL INTERMEDIATE, OAHU.					
		FUNDS FOR IMPROVEMENT AND RENOVATION OF BUILDING AND GROUNDS.					
		DESIGN			5		
		CONSTRUCTION			20		
		TOTAL FUNDING	AGS		25C		C
29.	HP1806	ENCHANTED LAKES ELEMENTARY SCHOOL, OAHU.					
		INSTALLATION OF AIR CONDITIONING.					
		CONSTRUCTION			30		
		TOTAL FUNDING	AGS		30C		C
30.	HP1807	ENCHANTED LAKES ELEMENTARY SCHOOL, OAHU.					
		INSTALLATION OF SLIDING DOORS BETWEEN K-3 AND K-4; IN G-1, G-2, AND G-3.					
		CONSTRUCTION			39		
		TOTAL FUNDING	AGS		39C		C
31.	JP2306	EWA BEACH ELEMENTARY SCHOOL, EWA BEACH, OAHU.					
		PLAN, DESIGN, AND CONSTRUCT SECURITY SCREENS FOR CLASSROOM #C-10 AND THE ADMINISTRATIVE BUILDINGS.					
		DESIGN			5		
		CONSTRUCTION			33		
		TOTAL FUNDING	AGS		38C		C
32.	SP1804	FARRINGTON HIGH SCHOOL, OAHU.					
		IMPROVEMENT AND CONSTRUCTION OF ADDITIONAL STUDENT AND VISITOR PARKING STALLS IN GORDON FIELD.					
		CONSTRUCTION			105		
		TOTAL FUNDING	AGS		105C		C
33.	JP1901	FERN ELEMENTARY SCHOOL, OAHU.					
		INSTALL 5 FOLDING SECURITY GATES, BUILDING F: 20' X 9' BETWEEN STUDENT BATHROOM EXTENSIONS IN FRONT OF ROOMS A-1, A-2, A-3, A-4, A-5 AND BETWEEN PE STORAGE ROOM AND TEACHER LOUNGE. AREA IS ATTRACTIVE NUISANCE FACING FERN PARK. FREQUENT BURGLARIES AND ONE FIRE IN LAST TWO YEARS. PRESENT SLIDING DOORS PROVIDE LOW SECURITY.					
		PLANS				1	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN			2		
		CONSTRUCTION			27		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		31C		C
34.	HP0607	HAIKU SCHOOL, HAIKU, MAUI.					
		PARKING LOT AND WIDEN AND IMPROVE DRIVEWAY.					
		CONSTRUCTION			25		
		TOTAL FUNDING	AGS		25C		C
35.	HP1405	HALEIWA ELEMENTARY SCHOOL, OAHU.					
		SECURITY FENCING WITH FOUR GATES FRONTING THE SCHOOL AND PARALLEL WITH HALEIWA ROAD.					
		DESIGN			1		
		CONSTRUCTION			7		
		TOTAL FUNDING	AGS		8C		C
36.	HP1404	HALEIWA ELEMENTARY SCHOOL, OAHU.					
		WALKWAY FROM BUILDING 23 TO HALAU TO CORRECT UNSAFE CONDITIONS.					
		DESIGN			1		
		CONSTRUCTION			5		
		TOTAL FUNDING	AGS		6C		C
37.	HP0601	HANA HIGH SCHOOL, HANA, MAUI.					
		WALLS TO PARTIALLY ENCLOSE THE AUTO SHOP					
		CONSTRUCTION			20		
		TOTAL FUNDING	AGS		20C		C
38.	SP0808	HAUULA ELEMENTARY SCHOOL, OAHU.					
		DESIGN AND CONTRUCTION FOR UP-GRADING AND MODERNIZATION OF EXISTING FACILITIES.					
		DESIGN			1		
		CONSTRUCTION			9		
		TOTAL FUNDING	AGS		10C		C
39.	SP0805	HEEIA ELEMENTARY SCHOOL, OAHU.					
		PLANS, DESIGN, AND CONSTRUCTION OF COVERED WALKWAYS BETWEEN STUDENT DROPOFF AREAS AND MAIN CLASSROOM BUILDINGS.					
		PLANS			1		
		DESIGN			5		
		CONSTRUCTION			34		
		TOTAL FUNDING	AGS		40C		C
40.	SP0601	HELEMANO ELEMENTARY SCHOOL, OAHU.					

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR	M O	FISCAL YEAR	M O
		EXPANSION OF AND INSTALLATION OF FENCING AROUND PARKING LOT.					
		DESIGN			13		
		CONSTRUCTION			36		
		TOTAL FUNDING	AGS		49C		C
41.	HP2801	HOKULANI SCHOOL, OAHU.					
		SIDEWALKS ADJACENT TO BUILDING C.					
		CONSTRUCTION			30		
		TOTAL FUNDING	AGS		30C		C
42.	SP1408	HOKULANI SCHOOL, OAHU.					
		INSTALLATION OF SINK FACILITIES IN ROOM C-1 FOR SPECIAL EDUCATION PROGRAM.					
		CONSTRUCTION			8		
		TOTAL FUNDING	AGS		8C		C
43.	HP4504	HONOWAI ELEMENTARY SCHOOL, WAIPAHU, OAHU.					
		CHAIN LINK FENCE AT THE REAR OF HONOWAI ELEMENTARY SCHOOL.					
		DESIGN			8		
		CONSTRUCTION			67		
		TOTAL FUNDING	AGS		75C		C
44.	SP0605	HONOWAI ELEMENTARY SCHOOL, OAHU.					
		DESIGN FOR EXPANSION OF STUDENT BATHROOMS.					
		CONSTRUCTION			10		
		TOTAL FUNDING	AGS		10C		C
45.	JP2305	ILIMA INTERMEDIATE SCHOOL, EWA BEACH, OAHU.					
		PLAN, DESIGN, AND CONSTRUCT A GRILL FENCE AND GATE FOR THE ENTRANCE TO THE MUSIC/BAND BUILDING.					
		DESIGN			2		
		CONSTRUCTION			3		
		TOTAL FUNDING	AGS		5C		C
46.	JP2308	IROQUOIS POINT ELEMENTARY SCHOOL, EWA BEACH, OAHU.					
		PLAN, DESIGN, AND CONSTRUCT A SINK IN CLASSROOM #P-3 AND #P-4.					
		DESIGN			1		
		CONSTRUCTION			4		
		TOTAL FUNDING	AGS		5C		C
47.	JP2307	IROQUOIS POINT ELEMENTARY SCHOOL, EWA BEACH, OAHU.					



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		PLAN, DESIGN, AND CONSTRUCT SIX-FOOT CHAIN LINK FENCING IMPROVEMENTS WITH A GATE FOR AUTOMOBILE ENTRY BEHIND THE CAFETERIA.					
		DESIGN			2		
		CONSTRUCTION			5		
		TOTAL FUNDING	AGS		7C		C
48.	HP3003	JEFFERSON SCHOOL, OAHU.					
		INSTALLATION OF SCREENS FOR WINDOWS AND SCREEN DOORS FOR BUILDINGS M AND N (ORTHOPEDIC UNIT).					
		CONSTRUCTION			10		
		TOTAL FUNDING	AGS		10C		C
49.	HP2403	JEFFERSON SCHOOL, OAHU.					
		INSTALLATION OF FENCE WITH CATTLE GATES AT ENTRANCE AND EXITS.					
		DESIGN			4		
		CONSTRUCTION			26		
		TOTAL FUNDING	AGS		30C		C
50.	HP2404	JEFFERSON SCHOOL, OAHU.					
		PLAYGROUND IMPROVEMENTS.					
		DESIGN			3		
		CONSTRUCTION			17		
		TOTAL FUNDING	AGS		20C		C
51.	HP2402	JEFFERSON SCHOOL, OAHU.					
		SPRINKLER SYSTEM FOR SCHOOL YARD.					
		DESIGN			15		
		CONSTRUCTION			85		
		TOTAL FUNDING	AGS		100C		C
52.	SP0807	KAAAWA ELEMENTARY SCHOOL, OAHU.					
		DESIGN AND CONSTRUCTION FOR UPGRADING AND MODERNIZATION OF EXISTING FACILITIES.					
		DESIGN			1		
		CONSTRUCTION			9		
		TOTAL FUNDING	AGS		10C		C
53.	HP3501	KAHUMANU ELEMENTARY SCHOOL, OAHU.					
		SIX PARTITIONS TO DIVIDE SIX DOUBLE CLASSROOM UNITS INTO SINGLE CLASSROOMS.					
		CONSTRUCTION			50		
		TOTAL FUNDING	AGS		50C		C
54.	HP1302	KAALA ELEMENTARY SCHOOL, OAHU.					

ACT 217

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		IMPROVE PRESENT BASEBALL BACK-STOP.					
		DESIGN			2		
		CONSTRUCTION			5		
		TOTAL FUNDING	AGS		7C		C
55.	JP1902	KAEWAI ELEMENTARY SCHOOL, OAHU.					
		IMPROVING SCHOOL GROUNDS. MOVE EXISTING CHAIN LINK FENCE PARALLEL KALIHI RECREATION CENTER PLAYGROUND; BUILDING RETAINING WALL; FILLING IN NEEDED SOIL; AND RELOCATING FENCE ON WALL FOR SAFETY.					
		PLANS			5		
		DESIGN			14		
		CONSTRUCTION			126		
		EQUIPMENT			25		
		TOTAL FUNDING	AGS		170C		C
56.	JP0804	KAHALUU ELEMENTARY SCHOOL, OAHU.					
		PLANS, DESIGN, AND CONSTRUCTION TO EXTEND EXISTING COVERED WALKWAYS.					
		PLANS			1		
		DESIGN			13		
		CONSTRUCTION			57		
		TOTAL FUNDING	AGS		71C		C
57.	HP1403	KAHUKU HIGH AND INTERMEDIATE SCHOOL, OAHU.					
		PROCURE AND REPLACE STUDENT LOCKERS DESTROYED BY FIRE.					
		EQUIPMENT			23		
		TOTAL FUNDING	AGS		23C		C
58.	HP1802	KAILUA HIGH SCHOOL, OAHU.					
		REPLACE EXISTING LOUVERS AND METAL FRAMEWORK IN SCHOOL GYMNASIUM.					
		DESIGN			3		
		CONSTRUCTION			57		
		TOTAL FUNDING	AGS		60C		C
59.	HP1902	KAILUA INTERMEDIATE SCHOOL, OAHU.					
		INSTALLATION OF SCHOOL-WIDE P.A. SYSTEM.					
		PLANS			2		
		DESIGN			2		
		CONSTRUCTION			40		
		TOTAL FUNDING	AGS		44C		C
60.	SP0906	KAILUA INTERMEDIATE SCHOOL, OAHU.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		RESURFACE PLAYCOURTS.					
		DESIGN		7			
		CONSTRUCTION		70			
		TOTAL FUNDING	AGS	77C			C
61.	SP0905	KAILUA HIGH SCHOOL, OAHU.					
		REPLACE EXISTING LOUVERS AND METAL FRAMEWORK IN SCHOOL GYM.					
		DESIGN		6			
		CONSTRUCTION		54			
		TOTAL FUNDING	AGS	60C			C
62.	JP2310	KAIMILOA ELEMENTARY SCHOOL, EWA BEACH, OAHU.					
		PLAN, DESIGN, AND CONSTRUCT GATES FOR THE AUTOMOBILE ENTRANCE BEHIND THE CAFETERIA.					
		DESIGN		2			
		CONSTRUCTION		6			
		TOTAL FUNDING	AGS	8C			C
63.	JP2309	KAIMILOA ELEMENTARY SCHOOL, EWA BEACH, OAHU.					
		PLAN, DESIGN, AND CONSTRUCT FOUR-FOOT CHAIN LINK FENCING IMPROVEMENTS FRONTING THE PARKING AREA ALONG KAUNOLU STREET.					
		DESIGN		2			
		CONSTRUCTION		3			
		TOTAL FUNDING	AGS	5C			C
64.	SP1506	KAIMUKI HIGH SCHOOL, OAHU.					
		FENCE EXTENSION ON ATHLETIC FIELD, BACKBOARDS ON TENNIS COURTS. RENOVATION AND INTERIOR IMPROVEMENTS TO GIRLS LOCKER ROOM.					
		DESIGN		2			
		CONSTRUCTION		54			
		TOTAL FUNDING	AGS	56C			C
65.	HP2802	KAIMUKI HIGH SCHOOL, OAHU.					
		PAVED DRIVEWAY ON SCHOOL GROUNDS.					
		CONSTRUCTION		50			
		TOTAL FUNDING	AGS	50C			C
66.	SP1409	KAIMUKI HIGH SCHOOL, OAHU.					
		DESIGN AND CONSTRUCTION FOR REPLACEMENT OF ROTC BUILDING.					
		DESIGN		25			
		CONSTRUCTION		75			

ACT 217

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		TOTAL FUNDING	AGS		100C		C
67.	HP2603	KAIMUKI INTERMEDIATE SCHOOL, OAHU.					
		WALL TO SEPARATE A PORTION OF THE LIBRARY FOR A COMPUTER CENTER. ALSO TO PROVIDE FOR THE INSTALLATION OF ELECTRICAL OUTLETS FOR COMPUTERS.					
		DESIGN			3		
		CONSTRUCTION			17		
		TOTAL FUNDING	AGS		20C		C
68.	HP2204	KAISER HIGH SCHOOL, OAHU.					
		ADDITIONAL SECURITY LIGHTS FOR PARKING LOT AND STADIUM.					
		PLANS			10		
		DESIGN			10		
		CONSTRUCTION			68		
		TOTAL FUNDING	AGS		88C		C
69.	SP1103	KAISER HIGH SCHOOL, OAHU.					
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR NEW GIRLS' LOCKER ROOM FACILITIES.					
		PLANS			10		
		DESIGN			30		
		CONSTRUCTION			89		
		EQUIPMENT			45		
		TOTAL FUNDING	AGS		174C		C
70.	JP0904	KALAHEO HIGH SCHOOL, OAHU.					
		PURCHASE AND INSTALL STUDENT LOCKERS ON CAMPUS.					
		PLANS			26		
		CONSTRUCTION			61		
		TOTAL FUNDING	AGS		87C		C
71.	HP2602	KALANI HIGH SCHOOL, OAHU.					
		CHAIN LINK FENCE AROUND THE ATHLETIC FIELD.					
		DESIGN			5		
		CONSTRUCTION			50		
		TOTAL FUNDING	AGS		55C		C
72.	HP2203	KALANI HIGH SCHOOL, OAHU.					
		INSTALLING VENTILATION FANS IN BUILDING J, SHOP CLASSROOMS.					
		DESIGN			1		
		CONSTRUCTION			4		
		TOTAL FUNDING	AGS		5C		C
73.	HP2303	KALANI HIGH SCHOOL, OAHU.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		GYMNASIUM EXPANSION, SHOWER FACILITIES, BLEACHERS, AND OTHER IMPROVEMENTS AT KALANI HIGH SCHOOL.			
		DESIGN		10	
		CONSTRUCTION		50	
		EQUIPMENT		40	
		TOTAL FUNDING	AGS	100C	C
74.		HP2305 KALANI HIGH SCHOOL, OAHU.			
		INSTALLATION OF CEILING VENTILATION FANS IN THE SHOP AND OTHER BUILDING IMPROVEMENTS.			
		DESIGN		2	
		CONSTRUCTION		9	
		EQUIPMENT		9	
		TOTAL FUNDING	AGS	20C	C
75.		HP3702 KALIHI-UKA ELEMENTARY SCHOOL, OAHU.			
		REMOVE SOLID PANE GLASS FROM ROOMS 103 TO 108, AND ROOMS 203 TO 208 IN BUILDING A AND REPLACE THEM WITH LOUVERS FOR PROPER VENTILATION.			
		DESIGN		10	
		CONSTRUCTION		90	
		TOTAL FUNDING	AGS	100C	C
76.		HP3801 KALIHI-WAENA ELEMENTARY SCHOOL, OAHU.			
		INSTALL AIR CONDITIONING SYSTEM FOR COMPUTER CLASSROOMS.			
		CONSTRUCTION		2	
		EQUIPMENT		3	
		TOTAL FUNDING	AGS	5C	C
77.		SP1903 KALIHI-WAENA SCHOOL, OAHU.			
		RENOVATE SCIENCE ROOM INTO A COMPUTER LAB. INSTALL AIR CONDITIONING AND SECURITY FACILITIES.			
		PLANS		15	
		DESIGN		15	
		CONSTRUCTION		50	
		EQUIPMENT		70	
		TOTAL FUNDING	AGS	150C	C
78.		JP1102 KAMILOIKI ELEMENTARY SCHOOL, OAHU.			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR ACOUSTICAL NOISE ABATEMENT, CONSTRUCTION OF A WALL IN COMPUTER ROOM AND OTHER IMPROVEMENTS.			
		PLANS		2	

ACT 217

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN			8		
		CONSTRUCTION			45		
		EQUIPMENT			5		
		TOTAL FUNDING	AGS		60C		C
79.	JP2411	KAPAA ELEMENTARY SCHOOL, KAUAI.					
		CONSTRUCTION FOR IMPROVEMENTS TO PLAY AREA GROUNDS.					
		CONSTRUCTION			75		
		TOTAL FUNDING	AGS		75C		C
80.	HP1104	KANOELANI ELEMENTARY SCHOOL, OAHU.					
		REMOVE PORTION OF EXISTING CHAIN LINK FENCE, AND EXPAND SIDEWALK AT KANOELANI ELEMENTARY SCHOOL.					
		CONSTRUCTION			30		
		TOTAL FUNDING	AGS		30C		C
81.	JP2409	KAUAI HIGH SCHOOL, KAUAI.					
		RENOVATION OF BUILDING R - ROOM 3.					
		CONSTRUCTION			250		
		TOTAL FUNDING	AGS		250C		C
82.	JP2410	KAUAI HIGH SCHOOL, KAUAI.					
		CONSTRUCTION FOR IMPROVEMENTS TO ATHLETIC FIELD.					
		CONSTRUCTION			74		
		TOTAL FUNDING	AGS		74C		C
83.	SP1707	KAULUWELA ELEMENTARY SCHOOL, OAHU.					
		FUNDS FOR IMPROVEMENT AND RENOVATION OF BUILDINGS AND GROUNDS.					
		DESIGN			7		
		CONSTRUCTION			28		
		TOTAL FUNDING	AGS		35C		C
84.	JP0505	KAUNAKAKAI ELEMENTARY SCHOOL, KAUNAKAKAI, MOLOKAI.					
		IMPROVEMENT TO FACILITIES.					
		CONSTRUCTION			45		
		TOTAL FUNDING	AGS		45C		C
85.	HP3413	KAWANANAKOA INTERMEDIATE SCHOOL, OAHU.					
		PERIMETER FENCE ON UNFENCED PORTION OF SCHOOL BOUNDARY.					
		DESIGN			3		
		CONSTRUCTION			20		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		TOTAL FUNDING	AGS		23C		C
86.	HP3311	KAWANANAKOA INTERMEDIATE SCHOOL, OAHU.					
		PUBLIC ADDRESS SYSTEM FOR ALL CLASSROOMS.					
		DESIGN			4		
		CONSTRUCTION			31		
		TOTAL FUNDING	AGS		35C		C
87.	HP3309	KAWANANAKOA INTERMEDIATE SCHOOL, OAHU.					
		NEW EXIT DRIVEWAY TO KUAKINI STREET.					
		DESIGN			6		
		CONSTRUCTION			34		
		TOTAL FUNDING	AGS		40C		C
88.	HP3310	KAWANANAKOA INTERMEDIATE SCHOOL, OAHU.					
		DOOR STOPS.					
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		1C		C
89.	HP2006	KEOLU ELEMENTARY SCHOOL, OAHU.					
		INSTALLATION OF ELECTRICAL OUTLETS AND AIR CONDITIONING TO THE COMPUTER ROOM.					
		CONSTRUCTION			6		
		TOTAL FUNDING	AGS		6C		C
90.	SP0519	KIHEI ELEMENTARY SCHOOL, KIHEI, MAUI.					
		PROVIDE A DOUBLE PORTABLE CLASSROOM FACILITY TO TEMPORARILY ALLEVIATE OVERCROWDING AND, IN THE LONG-RUN, SERVE AS A MUSIC PROGRAM FACILITY.					
		CONSTRUCTION			92		
		TOTAL FUNDING	AGS		92C		C
91.	JP0507	KILOHANA ELEMENTARY SCHOOL, KAUNAKAKAI, MOLOKAI.					
		IMPROVEMENTS TO FACILITIES.					
		CONSTRUCTION			20		
		TOTAL FUNDING	AGS		20C		C
92.	JP2412	KILAUEA ELEMENTARY SCHOOL, KAUAI.					
		CLASSROOM BUILDING WITH TEACHER WORK CENTER AND TOILET.					
		DESIGN			45		
		TOTAL FUNDING	AGS		45C		C

ACT 217

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
93.	HP1605	KING INTERMEDIATE SCHOOL, OAHU.			
		LIGHTING FOR CAFETERIA PARKING LOT AND FOR DRIVEWAY AND OFFICE.			
		DESIGN		5	
		CONSTRUCTION		35	
		TOTAL FUNDING	AGS	40C	C
94.	SP0803	KING INTERMEDIATE AND HIGH SCHOOL, OAHU.			
		DESIGN AND CONSTRUCTION OF MAJOR RENOVATION OF BUILDING I.			
		DESIGN		5	
		CONSTRUCTION		25	
		TOTAL FUNDING	AGS	30C	C
95.	HP2606	KING LIHOLIHO ELEMENTARY SCHOOL, OAHU.			
		COVERED WALKWAYS CONNECTING BUILDING K TO BUILDINGS F, J, AND B.			
		DESIGN		10	
		TOTAL FUNDING	AGS	10C	C
96.	HP2615	KING LIHOLIHO ELEMENTARY SCHOOL, OAHU.			
		SECURITY SCREENS FOR SECOND FLOOR CLASSROOMS OF BUILDING G.			
		DESIGN		3	
		CONSTRUCTION		12	
		TOTAL FUNDING	AGS	15C	C
97.	HP1202	KIPAPA ELEMENTARY SCHOOL, OAHU.			
		KILN ROOM.			
		DESIGN		5	
		CONSTRUCTION		45	
		TOTAL FUNDING	AGS	50C	C
98.	SP0602	KIPAPA ELEMENTARY SCHOOL, OAHU.			
		DESIGN AND CONSTRUCTION OF COVERED WALKWAYS FROM BUILDING A TO DINING ROOM.			
		DESIGN		9	
		CONSTRUCTION		26	
		TOTAL FUNDING	AGS	35C	C
99.	SP1105	KOKOHEAD ELEMENTARY SCHOOL, OAHU.			
		PLANS, DESIGN, AND CONSTRUCTION FOR A COVERED WALKWAY FROM EXISTING MAIN WALKWAY TO LIBRARY.			
		PLANS		2	
		DESIGN		3	



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		CONSTRUCTION			20		
		TOTAL FUNDING	AGS		25C		C
100.	HP0503	KONAWAENA HIGH SCHOOL, HAWAII.					
		RESURFACING AND SEALING THE SWIMMING POOL DECK.					
		CONSTRUCTION			40		
		TOTAL FUNDING	AGS		40C		C
101.	HP0502	KONAWAENA HIGH SCHOOL, HAWAII.					
		WEIGHT ROOM.					
		CONSTRUCTION			50		
		TOTAL FUNDING	AGS		50C		C
102.	JP0506	KUALAPUU ELEMENTARY SCHOOL, KUALAPUU, MOLOKAI.					
		IMPROVEMENT TO FACILITIES.					
		CONSTRUCTION			20		
		TOTAL FUNDING	AGS		20C		C
103.	SP1503	KUHIO ELEMENTARY SCHOOL, OAHU.					
		ENCLOSURE OF ENTIRE CAMPUS.					
		DESIGN			5		
		CONSTRUCTION			145		
		TOTAL FUNDING	AGS		150C		C
104.	SP1504	KUHIO SCHOOL, OAHU.					
		MAIN CAMPUS AREA MALL (WHERE WAIAKA ROAD CURRENTLY BISECTS THE SCHOOL CAMPUS) PHASE I.					
		PLANS			5		
		DESIGN			5		
		CONSTRUCTION			65		
		TOTAL FUNDING	AGS		75C		C
105.	HP0703	KULA ELEMENTARY SCHOOL, MAUI.					
		INSTALLATION OF WATER PURIFICATION SYSTEM AT KULA ELEMENTARY SCHOOL.					
		CONSTRUCTION			10		
		TOTAL FUNDING	AGS		10C		C
106.	JP0504	LAHAINA INTERMEDIATE SCHOOL, LAHAINA, MAUI.					
		IMPROVEMENT TO FACILITIES.					
		CONSTRUCTION			20		
		TOTAL FUNDING	AGS		20C		C
107.	JP0502	LAHAINALUNA HIGH SCHOOL, LAHAINA, MAUI.					
		RESURFACE TENNIS COURT.					
		CONSTRUCTION			20		

ACT 217

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		TOTAL FUNDING	AGS	20C			C
108.	SP0522	LAHAINALUNA HIGH SCHOOL, LAHAINA, MAUI.					
		RENOVATE AND MODIFY DAVID MALO DORMITORY LIBRARY TO PROVIDE LIVING UNIT FOR DORMITORY COUNSELOR.					
		DESIGN		3			
		CONSTRUCTION		30			
		TOTAL FUNDING	AGS	33C			C
109.	JP0503	LANAI HIGH AND ELEMENTARY SCHOOL, LANAI CITY, LANAI.					
		IMPROVEMENT TO FACILITIES.					
		CONSTRUCTION		20			
		TOTAL FUNDING	AGS	20C			C
110.	HP3409	LANAKILA ELEMENTARY SCHOOL, OAHU.					
		INSTALLATION OF A CONCRETE RAMP FOR THE HANDICAPPED TO BE LOCATED BY D BUILDING TOWARD THE PARK.					
		CONSTRUCTION		17			
		TOTAL FUNDING	AGS	17C			C
111.	SP1710	LANAKILA ELEMENTARY SCHOOL, OAHU.					
		FUNDS FOR IMPROVEMENT AND RENOVATION OF BUILDING AND GROUNDS.					
		DESIGN		7			
		CONSTRUCTION		28			
		TOTAL FUNDING	AGS	35C			C
112.	JP2202	LEHUA ELEMENTARY SCHOOL, OAHU.					
		DESIGN AND CONSTRUCTION OF 20 ADDITIONAL PARKING SPACES.					
		DESIGN		13			
		CONSTRUCTION		96			
		TOTAL FUNDING	AGS	109C			C
113.	HP1301	LEILEHUA HIGH SCHOOL, OAHU.					
		DUST COLLECTION SYSTEM FOR THE WOODSHOP.					
		CONSTRUCTION		50			
		TOTAL FUNDING	AGS	50C			C
114.	SP0702	LEILEHUA HIGH SCHOOL, OAHU.					
		DESIGN OF NEW P.E. LOCKER ROOM.					
		DESIGN		120			
		TOTAL FUNDING	AGS	120C			C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
115.	HP3601	LIKELIKE ELEMENTARY SCHOOL, OAHU.					
		RENOVATION AND EXPANSION OF THE LIBRARY, INCLUDING CENTRAL AIR CONDITIONING AND A MULTI- PURPOSE CONFERENCE ROOM.					
		DESIGN		25			
		CONSTRUCTION		225			
		TOTAL FUNDING	AGS	250C			C
116.	HP2301	LILI'UOKALANI ELEMENTARY SCHOOL, OAHU.					
		IMPROVEMENT OF STAGE AREA.					
		DESIGN		2			
		CONSTRUCTION		10			
		EQUIPMENT		8			
		TOTAL FUNDING	AGS	20C			C
117.	SP1904	LINAPUNI SCHOOL, OAHU.					
		DESIGN AND CONSTRUCT SECURITY SCREEN FOR BLDG. B WORKROOM. SCHOOL LOCATED IN HIGH RISK AREA AND HAS EXPERIENCED MANY BREAK-INS. SCREENS ARE NEEDED TO PREVENT DISRUPTION OF PRO- GRAMS AND REDUCE VANDALISM/ THEFT COSTS.					
		PLANS		1			
		DESIGN		2			
		CONSTRUCTION		10			
		EQUIPMENT		2			
		TOTAL FUNDING	AGS	15C			C
118.	SP1905	LINAPUNI SCHOOL, OAHU.					
		CONSTRUCTION OF COVERED WALK- WAY FOR HEALTH REASONS. CHIL- DREN GET WET GOING TO AND FROM THE 2 BUILDINGS FOR SPECIAL CLAS- SES, LUNCH, BREAKFAST AND HEALTH SERVICES. AS THERE IS NO CAFETORI- UM, STUDENTS' MEALS GET SOAKED ON RAINY DAYS.					
		PLANS		1			
		DESIGN		2			
		CONSTRUCTION		20			
		EQUIPMENT		2			
		TOTAL FUNDING	AGS	25C			C
119.	HP3304	LINCOLN ELEMENTARY, OAHU.					
		PARTITIONS FOR THREE (3) TYPE II CLASSROOMS.					
		DESIGN		3			
		TOTAL FUNDING	AGS	3C			C
120.	HP3305	LINCOLN ELEMENTARY, OAHU.					

ACT 217

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		SECURITY FENCE ALONG AUWAIOLIMU STREET FRONTING CAMPUS.					
		DESIGN			4		
		TOTAL FUNDING	AGS		4C		C
121.	SP1709	LINCOLN ELEMENTARY SCHOOL, OAHU.					
		DESIGN AND CONSTRUCT AN ENLARGEMENT OF EXISTING DRIVEWAY AND PARKING LOT AND AN ADDITIONAL ACCESS TO SCHOOL GROUNDS FOR ENTRANCE AND EXIT.					
		DESIGN			10		
		CONSTRUCTION			90		
		TOTAL FUNDING	AGS		100C		C
122.	HP3205	LUNALILO SCHOOL, OAHU.					
		RENOVATIONS AND IMPROVEMENTS TO FACILITIES AND GROUNDS.					
		CONSTRUCTION			3		
		TOTAL FUNDING	AGS		3C		C
123.	JP1505	LUNALILO SCHOOL, OAHU.					
		LIBRARY SECURITY SCREENS AND STUD WALL DIVIDING CLASSROOM INTO TWO CLASSROOMS.					
		DESIGN			2		
		CONSTRUCTION			38		
		TOTAL FUNDING	AGS		40C		C
124.	HP3410	MAEMAE ELEMENTARY SCHOOL, OAHU.					
		INSTALLATION OF SECURITY SCREENS FOR WINDOWS, AND METAL BARS AND GATE FOR LANAI AREA.					
		DESIGN			2		
		CONSTRUCTION			18		
		TOTAL FUNDING	AGS		20C		C
125.	JP1701	MAEMAE SCHOOL, OAHU.					
		SECURITY SCREENS FOR WINDOWS, AND METAL BARS AND GATES FOR BUILDING F.					
		DESIGN			8		
		CONSTRUCTION			76		
		TOTAL FUNDING	AGS		84C		C
126.	SP1708	MAEMAE ELEMENTARY SCHOOL, OAHU.					
		FUNDS FOR IMPROVEMENT AND RENOVATION OF BUILDING AND GROUNDS.					
		DESIGN			3		
		CONSTRUCTION			12		
		TOTAL FUNDING	AGS		15C		C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
127.	HP4106	MAKALAPA ELEMENTARY SCHOOL, OAHU.			
		WALLS TO DIVIDE SIX TYPE 4 CLASS- ROOMS INTO TWO SEPARATE CLASS- ROOMS.			
		DESIGN		18	
		CONSTRUCTION		46	
		TOTAL FUNDING	AGS	64C	C
128.	HP0704	MAKAWAO SCHOOL, MAUI.			
		PAVING OF PLAY COURTS AT MAKAWAO SCHOOL.			
		DESIGN		10	
		CONSTRUCTION		60	
		TOTAL FUNDING	AGS	70C	C
129.	HP3903	MAKALAPA ELEMENTARY, OAHU.			
		SINGLE WALL DIVIDING SIX TYPE 4 CLASSROOMS INTO TWO SEPARATE CLASSROOMS.			
		CONSTRUCTION		32	
		TOTAL FUNDING	AGS	32C	C
130.	JP2317	MAKAKILO ELEMENTARY SCHOOL, EWA BEACH, OAHU.			
		PARKING LOT, ROADWAY, AND OTH- ER IMPROVEMENTS IN THE LOWER CAMPUS.			
		DESIGN		9	
		CONSTRUCTION		81	
		TOTAL FUNDING	AGS	90C	C
131.	SP2318	MAKAKILO ELEMENTARY SCHOOL, OAHU.			
		INSTALL A SPRINKLER SYSTEM.			
		DESIGN		5	
		CONSTRUCTION		30	
		TOTAL FUNDING	AGS	35C	C
132.	JP1401	MANOA SCHOOL, OAHU.			
		IMPROVEMENT TO DRAINAGE DITCH LOCATED ON MAUKA CAMPUS.			
		DESIGN		35	
		CONSTRUCTION		20	
		TOTAL FUNDING	AGS	55C	C
133.	HP2710	MANOA SCHOOL, OAHU.			
		PARTITIONING OF THREE SETS OF CLASSROOMS PREVIOUSLY USED FOR 3 ON 2 PROGRAMS.			
		DESIGN		5	
		CONSTRUCTION		35	
		TOTAL FUNDING	AGS	40C	C

ACT 217

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
134.	JP0508	MAUNALOA ELEMENTARY SCHOOL, MAUNALOA, MOLOKAI.					
		IMPROVEMENTS TO FACILITIES.					
		CONSTRUCTION			20		
		TOTAL FUNDING	AGS		20C		C
135.	HP1808	MAUNAWILI ELEMENTARY SCHOOL, OAHU.					
		COVERED AREA FOR BICYCLE PARK- ING.					
		DESIGN			3		
		CONSTRUCTION			30		
		TOTAL FUNDING	AGS		33C		C
136.	HP1805	MAUNAWILI ELEMENTARY SCHOOL, OAHU.					
		INSTALLATION OF AIR CONDITIONING UNIT IN COMPUTER ROOM.					
		CONSTRUCTION			7		
		TOTAL FUNDING	AGS		7C		C
137.	JP1410	MCKINLEY HIGH SCHOOL, OAHU.					
		CONSTRUCTION OF NEW TRANS- FORMER ROOM.					
		DESIGN			7		
		CONSTRUCTION			400		
		TOTAL FUNDING	AGS		407C		C
138.	JP1706	MCKINLEY HIGH SCHOOL, OAHU.					
		DESIGN, CONSTRUCTION AND EQUIP- MENT FOR RENOVATIONS TO THE AU- DITORIUM BUILDING.					
		PLANS			25		
		DESIGN			55		
		CONSTRUCTION			165		
		EQUIPMENT			5		
		TOTAL FUNDING	AGS		250C		C
139.	JP0608	MILILANI HIGH SCHOOL, OAHU.					
		PLANNING AND DESIGN FOR A PER- FORMING ARTS THEATRE.					
		PLANS			50		
		DESIGN			172		
		TOTAL FUNDING	AGS		222C		C
140.	HP1204	MILILANI HIGH SCHOOL, OAHU.					
		CHAIN-LINK FENCE AROUND BASE- BALL FIELD AND ALONG KIPAPA DRIVE TO UPPER CAMPUS.					
		DESIGN			2		
		CONSTRUCTION			20		
		TOTAL FUNDING	AGS		22C		C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
141.	HP1203	MILILANI-UKA ELEMENTARY SCHOOL, OAHU.					
		IMPROVEMENTS, INCLUDES FENCING OF SCHOOL FOR SECURITY, VENTILA- TION FOR KILN, AND FIRE ALARM SPEAKER FOR F BUILDING.					
		CONSTRUCTION		11			
		TOTAL FUNDING	AGS	11C			C
142.	HP4007	MOANALUA HIGH SCHOOL, MOANALUA, OAHU.					
		PORTABLE CLASSROOM.					
		DESIGN		10			
		CONSTRUCTION		80			
		TOTAL FUNDING	AGS	90C			C
143.	SP1906	MOANALUA ELEMENTARY SCHOOL, OAHU.					
		REPLACEMENT OF WALLS BETWEEN BLDGS. 2A & 2B (CLASSROOMS A-1, A-2, A-9, A-10, B-1 & B-2).					
		PLANS		1			
		DESIGN		1			
		CONSTRUCTION		6			
		TOTAL FUNDING	AGS	8C			C
144.	SP1907	MOANALUA ELEMENTARY SCHOOL, OAHU.					
		INSTALL ELEVATOR OR RAMP FOR SECOND FLOOR IN BLDGS. A & B TO MAKE ALL PROGRAMS ACCESSIBLE TO THE HANDICAPPED. PRESENTLY THE HANDICAPPED STUDENTS ARE CARRIED TO CLASS BY SCHOOL STAFF.					
		PLANS		2			
		DESIGN		2			
		CONSTRUCTION		11			
		EQUIPMENT		7			
		TOTAL FUNDING	AGS	22C			C
145.	HP4006	MOANALUA INTERMEDIATE SCHOOL, OAHU.					
		AIR CONDITIONING SYSTEM.					
		DESIGN		29			
		TOTAL FUNDING	AGS	29C			C
146.	JP0501	MOLOKAI HIGH AND INTERMEDIATE SCHOOL, HOOLEHUA, MOLOKAI.					
		IMPROVEMENTS TO PARKING LOT, AND RESURFACING PLAYCOURT.					
		DESIGN		6			
		CONSTRUCTION		60			
		TOTAL FUNDING	AGS	66C			C

ACT 217

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
147.	HP4404	MOMILANI ELEMENTARY SCHOOL, OAHU.					
		COVERED WALKWAY AND CONCRETE STAIRS BETWEEN CLASSROOM BUILDING AND CAFETORIUM.					
		DESIGN			10		
		CONSTRUCTION			45		
		TOTAL FUNDING	AGS		55C		C
148.	HP4406	MOMILANI ELEMENTARY SCHOOL, OAHU.					
		RETAINING WALL BETWEEN BASKETBALL COURT AND PLAYGROUND.					
		DESIGN			3		
		CONSTRUCTION			5		
		TOTAL FUNDING	AGS		8C		C
149.	HP4405	MOMILANI ELEMENTARY SCHOOL, OAHU.					
		STAIRS FROM CLASSROOM BUILDING TO PLAYGROUND.					
		DESIGN			1		
		CONSTRUCTION			4		
		TOTAL FUNDING	AGS		5C		C
150.	HP4801	NANAKULI HIGH SCHOOL, OAHU.					
		RENOVATE AND RESURFACE RUNNING TRACK.					
		PLANS			3		
		DESIGN			2		
		CONSTRUCTION			50		
		TOTAL FUNDING	AGS		55C		C
151.	HP4802	NANAKULI HIGH SCHOOL, OAHU.					
		FENCE ENCLOSURE OF FOOTBALL FIELD.					
		CONSTRUCTION			20		
		TOTAL FUNDING	AGS		20C		C
152.	HP4803	NANAKULI HIGH SCHOOL, OAHU.					
		REPAIR RUNWAYS, INCLUDING LONG JUMP RAMPS.					
		PLANS			3		
		DESIGN			2		
		CONSTRUCTION			15		
		TOTAL FUNDING	AGS		20C		C
153.	HP4806	NANAKULI SCHOOLS, OAHU.					
		INSTALLATION OF WATER SPRINKLERS AT NANAKULI HIGH AND INTERMEDIATE, NANAKULI ELEMENTARY AND NANAIKAPONO ELEMENTARY SCHOOLS.					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		PLANS			3		
		DESIGN			2		
		CONSTRUCTION			25		
		TOTAL FUNDING	AGS		30C		C
154.	HP2701	NOELANI ELEMENTARY SCHOOL, OAHU.					
		REROOFING OF ROOFS AROUND THE WALKWAYS.					
		PLANS			2		
		DESIGN			2		
		CONSTRUCTION			46		
		TOTAL FUNDING	AGS		50C		C
155.	HP2702	NOELANI ELEMENTARY SCHOOL, OAHU.					
		RESURFACING OF PARKING LOT.					
		PLANS			2		
		DESIGN			2		
		CONSTRUCTION			36		
		TOTAL FUNDING	AGS		40C		C
156.	SP1407	NOELANI ELEMENTARY SCHOOL, OAHU.					
		REPAINTING OF EXTERIOR OF BUILDINGS.					
		CONSTRUCTION			60		
		TOTAL FUNDING	AGS		60C		C
157.	HP2703	NOELANI ELEMENTARY SCHOOL, OAHU.					
		FENCE AROUND SCHOOLYARD-MAKAI CAMPUS.					
		DESIGN			2		
		CONSTRUCTION			28		
		TOTAL FUNDING	AGS		30C		C
158.	SP1405	NOELANI ELEMENTARY SCHOOL, OAHU.					
		DESIGN AND CONSTRUCTION OF OUTDOOR STAGE FACILITY.					
		DESIGN			3		
		CONSTRUCTION			22		
		TOTAL FUNDING	AGS		25C		C
159.	SP1703	NUUANU ELEMENTARY SCHOOL, OAHU.					
		FUNDS FOR IMPROVEMENT AND RENOVATION OF BUILDINGS AND GROUNDS.					
		DESIGN			8		
		CONSTRUCTION			32		
		TOTAL FUNDING	AGS		40C		C
160.	HP3306	NUUANU ELEMENTARY SCHOOL, OAHU.					
		INSTALL SECURITY SCREENS FOR CLASSROOMS IN BUILDINGS B, F, G, H, AND I.					

ACT 217

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		DESIGN		5	
		CONSTRUCTION		37	
		TOTAL FUNDING	AGS	42C	C
161.	HP3308	NUUANU ELEMENTARY SCHOOL, OAHU.			
		FENCE ALONG PARKING LOT ON MAKAI BOUNDARY OF PARKING LOT BETWEEN DRIVEWAY ENTRANCE AND EXISTING FENCE PARALLEL TO GYM TO PROVIDE FOR SAFETY AND SECURITY OF CAMPUS.			
		DESIGN		1	
		CONSTRUCTION		4	
		TOTAL FUNDING	AGS	5C	C
162.	HP0403	PAHOA HIGH AND ELEMENTARY SCHOOL, HAWAII.			
		LIGHTS AT THE PAHOA HIGH AND ELEMENTARY SCHOOL TRACK.			
		DESIGN		1	
		CONSTRUCTION		4	
		TOTAL FUNDING	AGS	5C	C
163.	HP0705	PAIA ELEMENTARY SCHOOL, MAUI.			
		PAVING OF PARKING LOT AT PAIA ELEMENTARY SCHOOL.			
		DESIGN		8	
		CONSTRUCTION		50	
		TOTAL FUNDING	AGS	58C	C
164.	HP4407	PALISADES ELEMENTARY SCHOOL, OAHU.			
		SECURITY SCREENS FOR "A" BUILDING; GROUND FLOOR.			
		DESIGN		5	
		CONSTRUCTION		15	
		TOTAL FUNDING	AGS	20C	C
165.	HP1604	PARKER ELEMENTARY SCHOOL, OAHU.			
		INSTALLATION OF SPRINKLER SYSTEM.			
		CONSTRUCTION		28	
		TOTAL FUNDING	AGS	28C	C
166.	SP0816	PARKER ELEMENTARY SCHOOL, OAHU.			
		DESIGN AND CONSTRUCTION FOR REROOFING OF BUILDING B AND THE ADMINISTRATION/CAFETORIUM BUILDING.			
		DESIGN		2	
		CONSTRUCTION		33	
		TOTAL FUNDING	AGS	35C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
167.	HP3301	PAUOA SCHOOL, OAHU. NEW SCHOOL ENTRANCE. CONSTRUCTION		6			
		TOTAL FUNDING	AGS	6C			C
168.	HP3302	PAUOA SCHOOL, OAHU. FENCE ALONG CAMPUS BOUNDARIES BEYOND PAUOA STREAM FOR SAFETY AND SECURITY.		2			
		DESIGN		8			
		CONSTRUCTION		8			
		TOTAL FUNDING	AGS	10C			C
169.	SP1704	PAUOA SCHOOL, OAHU. FUNDS FOR IMPROVEMENT AND RENOVATION OF BUILDINGS AND GROUNDS.		8			
		DESIGN		32			
		CONSTRUCTION		32			
		TOTAL FUNDING	AGS	40C			C
170.	HP3303	PAUOA SCHOOL, OAHU. CLASSROOM WALL BETWEEN ROOMS B1 AND B2. (PREVIOUS 3-ON-2 CLASS- ROOMS.)		1			
		DESIGN		4			
		CONSTRUCTION		4			
		TOTAL FUNDING	AGS	5C			C
171.	HP4204	PEARL CITY HIGH SCHOOL, OAHU. MUSIC BUILDING SERVICE ROAD.		80			
		CONSTRUCTION		80			
		TOTAL FUNDING	AGS	80C			C
172.	JP2201	PEARL CITY HIGH SCHOOL, OAHU. DESIGN AND CONSTRUCTION OF AD- DITIONAL BLEACHERS OF THE ATH- LETIC COMPLEX.		30			
		DESIGN		270			
		CONSTRUCTION		270			
		TOTAL FUNDING	AGS	300C			C
173.	HP4402	PEARL CITY HIGH SCHOOL, OAHU. RENOVATION OF TWO CLASSROOMS.		15			
		DESIGN		75			
		CONSTRUCTION		75			
		TOTAL FUNDING	AGS	90C			C
174.	JP0607	PEARL CITY HIGH SCHOOL, OAHU. DESIGN OF CERAMICS CLASSROOM RENOVATION.		65			
		DESIGN		65			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		CONSTRUCTION TOTAL FUNDING	AGS	55 120C	C
175.	HP4306	PEARL CITY HIGHLANDS ELEMENTARY SCHOOL, OAHU.			
		RELOCATION OF THE KILN ROOM TO CORRECT SAFETY AND HEALTH DEFICIENCIES.			
		CONSTRUCTION TOTAL FUNDING	AGS	50 50C	C
176.	HP4302	PEARL CITY HIGHLANDS ELEMENTARY SCHOOL, OAHU.			
		SECURITY LIGHTS IN THE PARKING LOT.			
		CONSTRUCTION TOTAL FUNDING	AGS	15 15C	C
177.	HP4303	PEARL CITY HIGHLANDS ELEMENTARY SCHOOL, OAHU.			
		SECURITY GATES FOR BREEZE-WAYS BETWEEN CLASSROOMS.			
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS	4 31 35C	C
178.	JP2103	PEARLRIDGE ELEMENTARY SCHOOL, OAHU.			
		DESIGN AND CONSTRUCTION OF COVERED WALKWAY FROM BUILDING C TO BUILDINGS H AND J.			
		CONSTRUCTION TOTAL FUNDING	AGS	296 296C	C
179.	JP2312	POHAKEA ELEMENTARY SCHOOL, EWA BEACH, OAHU.			
		PLAN, DESIGN, AND CONSTRUCT GATES FOR THE AUTOMOBILE ENTRANCE BEHIND THE CAFETERIA.			
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS	1 1 2C	C
180.	JP2311	POHAKEA ELEMENTARY SCHOOL, EWA BEACH, OAHU.			
		PLAN, DESIGN, AND CONSTRUCT TEN ADDITIONAL STALLS IN THE PARKING AREA.			
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS	3 23 26C	C
181.	HP4107	RADFORD HIGH SCHOOL, OAHU.			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		PAVING OF THE STUDENTS' PARKING LOT.					
		DESIGN			20		
		CONSTRUCTION			80		
		TOTAL FUNDING	AGS		100C		C
182.	HP3803	RED HILL ELEMENTARY SCHOOL, OAHU.					
		COVERED WALKWAY.					
		DESIGN			1		
		CONSTRUCTION			14		
		TOTAL FUNDING	AGS		15C		C
183.	JP1402	ROOSEVELT HIGH SCHOOL, OAHU.					
		DESIGN AND CONSTRUCTION OF PRESS BOX FACILITIES FOR FOOTBALL STADIUM AND FOR UPGRADING ATHLETIC FIELD LIGHTING SYSTEM (HIGHER OUTPUT LIGHTS, NEW WIRING, ETC.).					
		DESIGN			4		
		CONSTRUCTION			146		
		TOTAL FUNDING	AGS		150C		C
184.	JP1601	ROOSEVELT HIGH SCHOOL, OAHU.					
		DESIGN AND CONSTRUCTION FOR RENOVATION OF CLASSROOMS IN BUILDING C.					
		DESIGN			55		
		CONSTRUCTION			197		
		TOTAL FUNDING	AGS		252C		C
185.	JP1602	ROOSEVELT HIGH SCHOOL, OAHU.					
		DESIGN AND CONSTRUCTION FOR REMOVAL AND RENOVATION OF STAGE RIGGING SYSTEM IN AUDITORIUM.					
		DESIGN			52		
		CONSTRUCTION			273		
		TOTAL FUNDING	AGS		325C		C
186.	HP4004	SALT LAKE ELEMENTARY SCHOOL, OAHU.					
		BUS SHELTER.					
		DESIGN			5		
		CONSTRUCTION			30		
		TOTAL FUNDING	AGS		35C		C
187.	HP2704	STEVENSON INTERMEDIATE SCHOOL, OAHU.					
		ENCLOSING KILN AND ADDING A VENT TO ROOM 112 IN BUILDING A.					
		PLANS			1		
		DESIGN			1		

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		CONSTRUCTION			18		
		TOTAL FUNDING	AGS		20C		C
188.	HP2705	STEVENSON INTERMEDIATE SCHOOL, OAHU.					
		REPAIR OF STAIRWAY TREADS.			4		
		CONSTRUCTION			4C		C
		TOTAL FUNDING	AGS				
189.	HP2706	STEVENSON INTERMEDIATE SCHOOL, OAHU.					
		REPAINTING CLASSROOM INTERIOR IN BUILDING A.			4		
		CONSTRUCTION			4C		C
		TOTAL FUNDING	AGS				
190.	HP1401	SUNSET BEACH ELEMENTARY SCHOOL, OAHU.					
		STORAGE FACILITY TO STORE CUSTODIAL CHEMICALS AND MATERIALS.			3		
		DESIGN			27		
		CONSTRUCTION			30C		C
		TOTAL FUNDING	AGS				
191.	HP1402	SUNSET BEACH ELEMENTARY SCHOOL, OAHU.					
		RESURFACE AND INSTALL CARPETING AND VINYL TILES IN PORTABLE BUILDINGS 7, 9, 16 AND 21.			2		
		DESIGN			24		
		CONSTRUCTION			26C		C
		TOTAL FUNDING	AGS				
192.	SP1202	TWELFTH SENATORIAL DISTRICT SCHOOLS, OAHU.					
		RENOVATIONS AND IMPROVEMENTS.			250		
		CONSTRUCTION			250C		C
		TOTAL FUNDING	AGS				
193.	HP1303	WAHIAWA INTERMEDIATE SCHOOL, OAHU.					
		ADDITIONAL FUNDS FOR A COVERED PLAYCOURT.			124		
		CONSTRUCTION			124C		C
		TOTAL FUNDING	AGS				
194.	JP0806	WAI AHOLE ELEMENTARY SCHOOL, OAHU.					
		DESIGN AND CONSTRUCTION FOR SCREENING OF DOORS AND WINDOWS ON BUILDING D.			1		
		DESIGN			8		
		CONSTRUCTION					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		TOTAL FUNDING	AGS		9C		C
195.	HP1505	WAIHAOLE ELEMENTARY SCHOOL, OAHU.					
		FENCING.					
		CONSTRUCTION			30		
		TOTAL FUNDING	AGS		30C		C
196.	SP0201	WAIAKEA ELEMENTARY AND INTERMEDIATE SCHOOL, HAWAII.					
		PLANNING, DESIGN, AND CONSTRUCTION OF A DRIVEWAY AND PARKING FACILITY.					
		DESIGN			10		
		CONSTRUCTION			65		
		TOTAL FUNDING	AGS		75C		C
197.	SP0202	WAIAKEA INTERMEDIATE SCHOOL, HAWAII.					
		PLANNING AND DESIGN AND CONSTRUCTION OF A PORTABLE CLASSROOM BUILDING.					
		DESIGN			10		
		CONSTRUCTION			70		
		TOTAL FUNDING	AGS		80C		C
198.	HP1407	WAIALUA ELEMENTARY SCHOOL, OAHU.					
		MOVABLE ROOM DIVIDERS OR PARTITIONS FOR ROOMS B1 AND 2, B4 AND 5, A1 AND 2, AND A3 AND 4.					
		DESIGN			10		
		CONSTRUCTION			40		
		TOTAL FUNDING	AGS		50C		C
199.	SP0704	WAIALUA HIGH SCHOOL, OAHU.					
		DESIGN FOR REPLACEMENT OF ATHLETIC FIELD LIGHTS.					
		DESIGN			58		
		TOTAL FUNDING	AGS		58C		C
200.	SP0706	WAIALUA HIGH SCHOOL, OAHU.					
		ACQUISITION OF 5 ACRES OF LAND FROM CASTLE AND COOKE MAUKA OF THE CAMPUS FOR A BASEBALL FIELD.					
		LAND			138		
		TOTAL FUNDING	AGS		138C		C
201.	HP1406	WAIALUA ELEMENTARY SCHOOL, OAHU.					
		SECURITY FENCING IN BACK OF SCHOOL.					

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN CONSTRUCTION				1 9	
		TOTAL FUNDING	AGS			10C	C
202.	HP4903	WAIANAE INTERMEDIATE SCHOOL, WAIANAE, OAHU.					
		INSTALL POP-UP SPRINKLER SYSTEM FOR SCHOOL CAMPUS.					
		PLANS				5	
		DESIGN				5	
		CONSTRUCTION				10	
		TOTAL FUNDING	AGS			20C	C
203.	SP2403	WAIANAE HIGH SCHOOL, OAHU.					
		DESIGN AND CONSTRUCT CHAIN LINK FENCE, WAIANAE HIGH SWIMMING POOL.					
		DESIGN				2	
		CONSTRUCTION				30	
		TOTAL FUNDING	AGS			32C	C
204.	HP0803	WAILUKU ELEMENTARY SCHOOL, MAUI.					
		PARTITIONS TO SEPARATE CLASSROOMS.					
		CONSTRUCTION				25	
		TOTAL FUNDING	AGS			25C	C
205.	HP2604	WAIKIKI ELEMENTARY SCHOOL, OAHU.					
		PLAYGROUND IMPROVEMENTS AND EQUIPMENT.					
		DESIGN				3	
		CONSTRUCTION				17	
		TOTAL FUNDING	AGS			20C	C
206.	HP2206	WAILUPE VALLEY ELEMENTARY SCHOOL, OAHU.					
		ENCLOSING AN OPEN WALL BETWEEN KINDERGARTEN AND FIRST GRADE CLASSROOMS.					
		DESIGN				1	
		CONSTRUCTION				4	
		TOTAL FUNDING	AGS			5C	C
207.	HP2003	WAIMANALO INTERMEDIATE SCHOOL, OAHU.					
		SIDEWALK AND STEPS BETWEEN BUILDINGS Q AND N.					
		DESIGN				2	
		CONSTRUCTION				20	
		TOTAL FUNDING	AGS			22C	C
208.	JP2414	WAIMEA CANYON SCHOOL, KAUAI.					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OUTDOOR LIGHTS FOR OPEN COURT. DESIGN AND CONSTRUCTION.					
		DESIGN		10			
		CONSTRUCTION		15			
		TOTAL FUNDING	AGS	25C			C
209.	JP2413	WAIMEA HIGH SCHOOL, KAUAI.					
		A 4 CLASSROOM BUILDING WITH TEACHER WORK CENTER AND TOI- LET. PLANNING AND DESIGN.					
		DESIGN		45			
		TOTAL FUNDING	AGS	45C			C
210.	JP2315	WAIPAHU ELEMENTARY SCHOOL, WAIPAHU, OAHU.					
		PLAN, DESIGN, AND CONSTRUCT TEN ADDITIONAL STALLS IN THE PARKING AREA.					
		DESIGN		3			
		CONSTRUCTION		23			
		TOTAL FUNDING	AGS	26C			C
211.	SP2316	WAIPAHU ELEMENTARY SCHOOL, OAHU.					
		IMPROVE KAHALE FIELD.					
		DESIGN		70			
		CONSTRUCTION		5			
		TOTAL FUNDING	AGS	75C			C
212.	JP2314	WAIPAHU INTERMEDIATE SCHOOL, WAIPAHU, OAHU.					
		PLAN, DESIGN, AND CONSTRUCT A SCHOOL BELL SYSTEM FOR THE NEW SCHOOL BUILDINGS.					
		DESIGN		5			
		CONSTRUCTION		27			
		TOTAL FUNDING	AGS	32C			C
213.	HP3202	WASHINGTON INTERMEDIATE SCHOOL, OAHU.					
		RENOVATIONS AND IMPROVEMENTS TO FACILITIES AND GROUNDS.					
		CONSTRUCTION		10			
		TOTAL FUNDING	AGS	10C			C
214.	HP3201	WASHINGTON INTERMEDIATE SCHOOL, OAHU.					
		RENOVATE THE HOME ECONOMICS CLASSROOMS.					
		CONSTRUCTION		10			
		TOTAL FUNDING	AGS	10C			C
215.	HP1201	WHEELER INTERMEDIATE SCHOOL, OAHU.					

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		PAVED-ROAD--BACK OF WHEELER ELEMENTARY SCHOOL.					
		DESIGN		10			
		CONSTRUCTION		71			
		TOTAL FUNDING	AGS	81C			C
216.	HP2302	WILSON ELEMENTARY SCHOOL, OAHU.					
		CLASSROOM ACCORDIAN ROOM DIVIDERS, CEILING FANS AND OTHER IMPROVEMENTS.					
		DESIGN		2			
		CONSTRUCTION		4			
		EQUIPMENT		4			
		TOTAL FUNDING	AGS	10C			C
217.	SP0810	WINDWARD SCHOOLS, OAHU.					
		INITIATE THE IMPLEMENTATION OF CAMPUS DEVELOPMENT PLANS FOR SCHOOLS IN THE EIGHTH SENATORIAL DISTRICT AND RE-EVALUATION OF THE EXISTING CAMPUS DEVELOPMENT PLAN FOR CASTLE HIGH SCHOOL.					
		CONSTRUCTION		10			
		TOTAL FUNDING	AGS	10C			C
<b>EDN203 - SCHOOL ADMINISTRATION</b>							
218.	HP3703	DOLE INTERMEDIATE SCHOOL, OAHU.					
		FACILITY IMPROVEMENTS TO THE ADMINISTRATION BUILDING; RESTORE COUNSELORS' OFFICE SPACE TO HEALTH ROOM, CONSTRUCT COUNSELORS' OFFICES BY RENOVATING PRESENT TEACHERS' WORKROOM SPACE.					
		DESIGN		7			
		CONSTRUCTION		58			
		TOTAL FUNDING	AGS	65C			C
219.	SP1104	HAAHAIONE ELEMENTARY SCHOOL, OAHU.					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SECURITY SCREENS FOR THE ADMINISTRATION/ LIBRARY BUILDING.					
		PLANS		1			
		DESIGN		1			
		CONSTRUCTION		3			
		EQUIPMENT		3			
		TOTAL FUNDING	AGS	8C			C
220.	HP3307	NUUANU ELEMENTARY SCHOOL, OAHU.					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		SECURITY SCREENS FOR OFFICE IN BUILDING A TO PROVIDE SECURITY OF BUILDING AND OFFICE EQUIPMENT AGAINST THEFT AND VANDALISM.					
		DESIGN			1		
		CONSTRUCTION			7		
		TOTAL FUNDING	AGS		8C		C
221.	HP4003	SALT LAKE ELEMENTARY SCHOOL, OAHU.					
		SECURITY SCREENS FOR THE ADMINISTRATION BUILDING.					
		CONSTRUCTION			50		
		TOTAL FUNDING	AGS		50C		C
222.	SP0606	WAIPAHU INTERMEDIATE SCHOOL, OAHU.					
		DESIGN OF LIBRARY/ADMINISTRATION BUILDING.					
		DESIGN			100		
		TOTAL FUNDING	AGS		100C		C
<b>EDN204 - INSTRUCTIONAL MEDIA</b>							
223.	HP1901	AIKAHI ELEMENTARY SCHOOL, OAHU.					
		INSTALLATION OF AIR CONDITIONING IN THE LIBRARY TO BE SUPPLEMENTED BY PRIOR AUTHORIZATION FOR CEILING FANS FOR THE CAFETORIUM AND LIBRARY.					
		PLANS			5		
		DESIGN			5		
		CONSTRUCTION			95		
		TOTAL FUNDING	AGS		105C		C
224.	HP3411	CENTRAL INTERMEDIATE SCHOOL, OAHU.					
		CARPETING IN THE LIBRARY.					
		CONSTRUCTION			11		
		TOTAL FUNDING	AGS		11C		C
225.	JP1802	FARRINGTON HIGH SCHOOL, OAHU.					
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR EXPANSION AND RENOVATION OF THE LIBRARY BUILDING.					
		PLANS			20		
		DESIGN			40		
		CONSTRUCTION			385		
		EQUIPMENT			5		
		TOTAL FUNDING	AGS		450C		C
226.	SP0701	ILIAHI ELEMENTARY SCHOOL, OAHU.					

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89	
		DESIGN TO AIR CONDITION EXISTING LIBRARY. DESIGN			19	
		TOTAL FUNDING	AGS		19C	C
227.	HP2605	JEFFERSON ELEMENTARY SCHOOL, OAHU.				
		SECURITY SCREENS FOR SCHOOL LI-BRARY. DESIGN			5	
		CONSTRUCTION			25	
		TOTAL FUNDING	AGS		30C	C
228.	HP1703	KANEOHE ELEMENTARY SCHOOL, OAHU.				
		LIBRARY RENOVATION. PLANS			10	
		DESIGN			10	
		CONSTRUCTION			20	
		TOTAL FUNDING	AGS		40C	C
229.	SP1705	KAWANANAKOA INTERMEDIATE SCHOOL, OAHU.				
		DESIGN AND CONSTRUCTION FOR THE INSTALLMENT OF AIR-CONDI-TIONING IN THE LIBRARY. PLANS			29	
		DESIGN			56	
		TOTAL FUNDING	AGS		85C	C
230.	JP0907	KEOLU ELEMENTARY SCHOOL, OAHU.				
		INSTALL 5' X 7' X 9' SLOTTED SHELVES FOR LIBRARY. CONSTRUCTION			4	
		TOTAL FUNDING	AGS		4C	C
231.	HP1003	LAHAINALUNA HIGH SCHOOL, LAHAINA, MAUI.				
		RENOVATE AND MODIFY DAVID MALO DORMITORY LIBRARY TO PROVIDE LIVING UNIT FOR DORMITORY COUNSELOR. DESIGN			1	
		CONSTRUCTION			15	
		TOTAL FUNDING	AGS		16C	C
232.	JP1603	LINCOLN ELEMENTARY SCHOOL, OAHU.				
		DESIGN AND CONSTRUCTION FOR EXPANSION AND RENOVATION OF LI-BRARY. DESIGN			42	
		CONSTRUCTION			108	
		TOTAL FUNDING	AGS		150C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
233.	HP3203	LUNALILO SCHOOL, OAHU.  INSTALLATION OF SECURITY SCREENS FOR THE LIBRARY AT KING WILLIAM C. LUNALILO SCHOOL. CONSTRUCTION			12		
		TOTAL FUNDING	AGS		12C		C
234.	HP1801	MAUNAWILI ELEMENTARY SCHOOL, OAHU.  INSTALLATION OF AIR CONDITIONER IN LIBRARY. DESIGN			10		
		CONSTRUCTION			100		
		TOTAL FUNDING	AGS		110C		C
235.	JSP102	MOKAPU ELEMENTARY SCHOOL, OAHU.  DESIGN AND CONSTRUCTION FOR RENOVATION OF J BUILDING INTO A LIBRARY AND RENOVATION OF THE EXISTING LIBRARY WING INTO CLASSROOMS. CONSTRUCTION			236		
		TOTAL FUNDING	AGS		236C		C
236.	JP1101	NIU VALLEY INTERMEDIATE SCHOOL, OAHU.  PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR RENOVATION OF LIBRARY INCLUDING AIR CONDITIONING. PLANS			5		
		DESIGN			30		
		CONSTRUCTION			80		
		EQUIPMENT			10		
		TOTAL FUNDING	AGS		125C		C
237.	SP1406	NOELANI ELEMENTARY SCHOOL, OAHU.  DESIGN AND INSTALLATION OF AIR CONDITIONING SYSTEM FOR SCHOOL LIBRARY. DESIGN			2		
		CONSTRUCTION			18		
		TOTAL FUNDING	AGS		20C		C
238.	SP2104	WEBLING ELEMENTARY SCHOOL, OAHU.  DESIGN AND CONSTRUCT AND INSTALL AIR CONDITIONING IN THE LIBRARY. DESIGN			42		
		CONSTRUCTION			236		
		TOTAL FUNDING	AGS		278C		C

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
<b>EDN305 - SCHOOL FOOD SERVICES</b>							
239.	HP4104	AIEA HIGH SCHOOL, OAHU.					
		INSTALLATION OF EXHAUST FANS IN CAFETERIA.					
		DESIGN			7		
		CONSTRUCTION			20		
		TOTAL FUNDING	AGS		27C		C
240.	HP4103	AIEA INTERMEDIATE SCHOOL, OAHU.					
		EXPANSION OF CAFETERIA.					
		DESIGN			10		
		CONSTRUCTION			30		
		TOTAL FUNDING	AGS		40C		C
241.	HP4005	ALIAMANU INTERMEDIATE SCHOOL, OAHU.					
		INSTALLATION OF CEILING FANS FOR THE CAFETERIA.					
		CONSTRUCTION			6		
		TOTAL FUNDING	AGS		6C		C
242.	HP1603	HEEIA ELEMENTARY SCHOOL, OAHU.					
		IMPROVEMENTS TO KITCHEN (VENTILATION).					
		DESIGN			7		
		CONSTRUCTION			66		
		TOTAL FUNDING	AGS		73C		C
243.	HP2401	JEFFERSON SCHOOL, OAHU.					
		INSTALLATION OF CEILING FANS IN CAFETERIA, DINING ROOM, AND KITCHEN AREAS.					
		DESIGN			1		
		CONSTRUCTION			7		
		TOTAL FUNDING	AGS		8C		C
244.	HP2004	KAILUA ELEMENTARY SCHOOL, OAHU.					
		RENOVATION OF THE INTERIOR OF THE CAFETERIUM.					
		PLANS			2		
		DESIGN			2		
		CONSTRUCTION			41		
		TOTAL FUNDING	AGS		45C		C
245.	HP0401	KAUMANA ELEMENTARY SCHOOL, HILO, HAWAII.					
		CAFETERIA AT KAUMANA ELEMENTARY SCHOOL.					
		CONSTRUCTION			85		
		TOTAL FUNDING	AGS		85C		C
246.	HP1803	KEOLU ELEMENTARY SCHOOL, OAHU.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		INSTALLATION OF CEILING FANS IN THE CAFETORIUM.			
		CONSTRUCTION		5	
		TOTAL FUNDING	AGS	5C	C
247.	HP0606	KONAWAENA ELEMENTARY SCHOOL, KONA, HAWAII.			
		PROVIDE FOR SERVING AN ADDITIONAL LUNCH LINE.			
		CONSTRUCTION		25	
		TOTAL FUNDING	AGS	25C	C
248.	SP0801	LAIE ELEMENTARY SCHOOL, OAHU.			
		CONSTRUCTION FOR EXPANSION AND MODERNIZATION OF THE CAFETORIUM.			
		CONSTRUCTION		26	
		TOTAL FUNDING	AGS	26C	C
249.	HP2005	LANIKAI ELEMENTARY SCHOOL, OAHU.			
		RENOVATION TO THE KITCHEN FOR THE STUDENT DINING AREA.			
		DESIGN		8	
		CONSTRUCTION		23	
		TOTAL FUNDING	AGS	31C	C
<b>EDN407 - PUBLIC LIBRARIES</b>					
250.	HP2202	AINA HAINA PUBLIC LIBRARY, OAHU.			
		REPLACEMENT OF WALL TO WALL CARPETING.			
		CONSTRUCTION		10	
		TOTAL FUNDING	AGS	10C	C
251.	JP2313	EWA BEACH COMMUNITY/SCHOOL LIBRARY, EWA BEACH, OAHU.			
		DESIGN AND CONSTRUCT FOUR-FOOT CHAIN LINK FENCING IMPROVEMENTS ALONG NORTH ROAD.			
		DESIGN		1	
		CONSTRUCTION		2	
		TOTAL FUNDING	AGS	3C	C
252.	JP2321	EWA REGIONAL LIBRARY, EWA, OAHU.			
		PLANS, DESIGN, CONSTRUCTION AND OTHER IMPROVEMENTS FOR THE EWA REGIONAL LIBRARY.			
		PLANS		71	
		DESIGN		6	
		CONSTRUCTION		56	
		TOTAL FUNDING	AGS	133C	C
253.	SP1001	KAILUA (PUBLIC) LIBRARY, KAILUA, OAHU.			

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN AND CONSTRUCTION OF AIR CONDITIONING SYSTEM.					
		DESIGN			25		
		CONSTRUCTION			237		
		EQUIPMENT			5		
		TOTAL FUNDING	AGS		267C		C
254.	HP1705	KANEOHE LIBRARY, OAHU.					
		WIND AND RAIN BARRIERS.					
		DESIGN			5		
		CONSTRUCTION			10		
		TOTAL FUNDING	AGS		15C		C
255.	HP2708	MANOA LIBRARY, OAHU.					
		COVERED PATIO FOR DELIVERY AREA.					
		DESIGN			7		
		TOTAL FUNDING	AGS		7C		C
256.	SP1003	WAIMANALO COMMUNITY LIBRARY, WAIMANALO, OAHU.					
		REROOFING OF LIBRARY BUILDING.					
		CONSTRUCTION			30		
		TOTAL FUNDING	AGS		30C		C
257.	SP1004	WAIMANALO COMMUNITY LIBRARY, WAIMANALO, OAHU.					
		INSTALLATION OF LIBRARY SIGN ON HIGHWAY.					
		CONSTRUCTION			3		
		TOTAL FUNDING	AGS		3C		C
<b>UOH101 - INSTRUCTION - UOH, MANOA</b>							
258.	SP2203	UNIVERSITY OF HAWAII, OAHU.					
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR ARMY ROTC FACILITIES.					
		CONSTRUCTION			249		
		TOTAL FUNDING	UOH		249C		C
<b>UOH106 - INSTITUTIONAL SUPPORT - UOH, MANOA</b>							
259.	HP3807	U.H., WESTERN CURRICULUM COORDINATION CENTER, OAHU.					
		RENOVATE AND INSTALL AIR CONDITIONING SYSTEM FOR LIBRARY AND CLASSROOM.					
		CONSTRUCTION			2		
		EQUIPMENT			3		
		TOTAL FUNDING	AGS		5C		C
<b>UOH315 - INSTITUTIONAL SUPPORT - KAPIOLANI CC</b>							
260.	HP3806	KAPIOLANI COMMUNITY COLLEGE, OAHU.					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		RENOVATE AND INSTALL AIR CONDITIONING SYSTEM FOR BUSINESS ADMINISTRATION DEPARTMENT BUSINESS OFFICE.					
		CONSTRUCTION			1		
		EQUIPMENT			2		
		TOTAL FUNDING	AGS		3C		C
261.	SP1303	KCC, DIAMOND HEAD CAMPUS, OAHU.					
		PLANS, DESIGN AND CONSTRUCTION OF MAJOR RENOVATION OF EXISTING CHAPEL BUILDING FOR COMMUNITY SERVICE PROGRAMS.					
		PLANS			10		
		DESIGN			10		
		CONSTRUCTION			92		
		EQUIPMENT			13		
		TOTAL FUNDING	UOH		125C		C
	UOH335	- INSTITUTIONAL SUPPORT - WINDWARD CC					
262.	HP1601	WINDWARD COMMUNITY COLLEGE, OAHU.					
		ROOF EXTENSION FOR WAIPA BUILDING.					
		DESIGN			14		
		CONSTRUCTION			46		
		TOTAL FUNDING	AGS		60C		C
		CULTURE AND RECREATION					
	AGS881	- PERFORMING & VISUAL ARTS EVENTS					
1.	JP0510	R.W. MEYER SUGAR MILL MOLOKAI MUSEUM AND CULTURAL CENTER, MOLOKAI.					
		GRANT-IN-AID: DESIGN AND CONSTRUCTION OF A CULTURAL AND HISTORICAL MUSEUM IN CONJUNCTION WITH THE MEYER SUGAR MILL.					
		CONSTRUCTION			100		
		TOTAL FUNDING	LNR		100C		C
2.	HP2906	HAWAII THEATER, OAHU.					
		GRANT-IN-AID: IMPROVEMENTS TO THE HAWAII THEATER CENTER FACILITIES.					
		CONSTRUCTION			150		
		TOTAL FUNDING	AGS		150C		C
	LNR806	- HERITAGE & RECREATION PARKS					
3.	HP1104	CHINESE COOKHOUSE, OAHU.					
		RESTORATION OF 1908 CHINESE COOKHOUSE.					
		CONSTRUCTION			18		

ACT 217

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		TOTAL FUNDING	LNR		18C		C
4.	SP1302	DIAMOND HEAD STATE MONUMENT, OAHU.					
		CONTINUED IMPROVEMENT OF MAUKA SIDE OF DIAMOND HEAD ROAD PARKWAY NEAR LIGHTHOUSE TO CONSTRUCT JOGGING PATH, BIKEWAY, LANDSCAPING, AND ROADWAY IMPROVEMENTS.					
		DESIGN			10		
		CONSTRUCTION			62		
		TOTAL FUNDING	LNR		72C		C
5.	SP1604	FORT ARMSTRONG-KEWALO (KAKAAKO), OAHU.					
		DESIGN AND CONSTRUCTION FOR DEVELOPMENT OF AN OCEANFRONT PARK AND RELATED FACILITIES.					
		CONSTRUCTION			300		
		TOTAL FUNDING	LNR		300C		C
6.	JP2420	HAENA STATE PARK, KAUAI.					
		INSTALLATION OF EMERGENCY TELEPHONES.					
		CONSTRUCTION			30		
		TOTAL FUNDING	LNR		30C		C
7.	SP0402	HOOKIPA PARK IMPROVEMENTS, MAUI.					
		CONSTRUCTION OF PARKING, RESTROOM AND UTILITIES FOR ANNUAL WINDSURFING CHAMPIONSHIP TOURNAMENTS.					
		CONSTRUCTION			150		
		TOTAL FUNDING	LNR		150C		C
8.	JP2419	POLIHALE STATE PARK, KAUAI.					
		INSTALLATION OF EMERGENCY TELEPHONES.					
		CONSTRUCTION			70		
		TOTAL FUNDING	LNR		70C		C
9.	HP3502	KAKAAKO WATERFRONT, OAHU.					
		DEVELOPMENT OF AN OCEANFRONT PARK.					
		DESIGN			100		
		TOTAL FUNDING	LNR		100C		C
10.	SP0509	KAMAKOU PRESERVE, MOLOKAI.					
		CONSTRUCTION OF A BOARDWALK AT PEPEOPAE BOG, KAMAKOU PRESERVE, MOLOKAI, BY THE NATURE CONSERVANCY OF HAWAII.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		CONSTRUCTION		5	
		TOTAL FUNDING	LNR	5C	C
11.	SP1712	KING KAMEHAMEHA III SUMMER PALACE REMNANTS, "KANIAKAPUPU", OAHU.			
		FUNDS FOR REMOVAL OF 3 IRON-WOOD TREES, WHICH ARE GROWING INTO THE WALLS OF "KANIAKAPUPU" AND TO BEGIN RESTORATION AND RECONSTRUCTION OF THE WALLS.			
		DESIGN		6	
		CONSTRUCTION		24	
		TOTAL FUNDING	LNR	30C	C
12.	SP0103	OLD KONA AIRPORT, HAWAII.			
		PLANS, DESIGN, AND CONSTRUCTION OF THE STATE PAVILION, OLD KONA AIRPORT PARK NOISE ABATEMENT.			
		CONSTRUCTION		105	
		TOTAL FUNDING	LNR	105C	C
13.	HP1017	PALAAU PARK, KALAE, MOLOKAI.			
		PARK IMPROVEMENT: PLANTING UNIQUE HAWAIIAN TREES, AND KALAUPAPA LOOKOUT IMPROVEMENTS.			
		CONSTRUCTION		3	
		TOTAL FUNDING	LNR	3C	C
14.	SP0707	WAHIAWA FRESHWATER PARK, OAHU.			
		DESIGN OF JOGGING AND/OR BIKE PATH.			
		DESIGN		25	
		TOTAL FUNDING	LNR	25C	C
15.	HP2504	WAAHILA STATE PARK, OAHU.			
		NEW CARETAKER COTTAGE.			
		PLANS		10	
		DESIGN		15	
		TOTAL FUNDING	LNR	25C	C
16.	HP5115	WAIMEA PIER, KAUAI.			
		EXTEND PIER.			
		CONSTRUCTION		10	
		TOTAL FUNDING	LNR	10C	C
<b>TRN801 - OCEAN-BASED RECREATION</b>					
17.	JP0513	KAUNAKAKAI HARBOR, MOLOKAI.			
		INFRASTRUCTURE FOR PROPOSED ICE SHED AND OTHER WHARF SERVICES.			
		CONSTRUCTION		4	

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		TOTAL FUNDING	TRN		4C		C
18.	JP0817	HEEIA KEA BOAT HARBOR, OAHU.					
		IMPROVEMENT AND UPGRADING OF THE HEEIA KEA PIER AND THE PARKING LOT.					
		DESIGN			7		
		CONSTRUCTION			64		
		TOTAL FUNDING	TRN		71C		C
19.	HP0902	KAHULUI BEACH ROAD, MAUI.					
		IMPROVEMENTS AND MODIFICATIONS TO BOAT LANDING FACILITIES AND PROTECTIVE STRUCTURES AND OTHER IMPROVEMENTS.					
		CONSTRUCTION			90		
		TOTAL FUNDING	TRN		90C		C
20.	SP0516	KIHEI BOAT LAUNCH, KIHEI, MAUI.					
		PROVIDE SIGNS FOR PARKING LOT AND A PORTABLE TOILET TO ACCOMMODATE USERS OF BOAT RAMP AND THE PUBLIC.					
		CONSTRUCTION			2		
		TOTAL FUNDING	TRN		2C		C
21.	SP0303	MAHUKONA BOAT RAMP, MAHUKONA, HAWAII.					
		DESIGN AND CONSTRUCTION FOR THE RENOVATION OF THE BOAT RAMP AT MAHUKONA, HAWAII.					
		DESIGN			5		
		CONSTRUCTION			25		
		TOTAL FUNDING	TRN		30C		C
22.	HP0507	NAPOOPOO PIER, HAWAII.					
		INSTALL A NIGHT LIGHT.					
		CONSTRUCTION			5		
		TOTAL FUNDING	TRN		5C		C
23.	JP0515	PUBLIC BOAT RAMP, MOLOKAI.					
		PUBLIC BOAT RAMP FOR EASTERN MOLOKAI.					
		DESIGN			5		
		CONSTRUCTION			2		
		TOTAL FUNDING	TRN		7C		C

**PUBLIC SAFETY**

**LNR810 - PREVENTION OF NATURAL DISASTERS**

1. JP2401 FLOOD CONTROL DRAINAGE DITCH, WAIANAE, OAHU.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F

DESIGN AND IMPROVEMENT TO DRAINAGE DITCH ON FARRINGTON HIGHWAY ACROSS WAIANAE HIGH SCHOOL.  
 PLANS 20  
 LAND 20  
 DESIGN 85  
 TOTAL FUNDING LNR 125C C

2. HP3905 KAPALAMA CANAL, OAHU.  
 BEAUTIFICATION AND CLEAN-UP CONSTRUCTION 50  
 TOTAL FUNDING LNR 50C C

GOVERNMENT-WIDE SUPPORT

LTG100 - OFFICE OF THE LIEUTENANT GOVERNOR

1. SP1507 MCGRUFF ELEM. SCHOOL PUPPET PROG. HAWAII CRIMINAL JUSTICE COMMISSION, OAHU.  
 PROGRAM TO PREVENT CHILDREN FROM BECOMING VICTIMS OF CRIME. PROGRAMS FOR EACH CLASSROOM IN SCHOOLS IN 15TH DISTRICT.  
 PLANS 4  
 TOTAL FUNDING LTG 4C C

AGS221 - CONSTRUCTION

2. HP0402 HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL (HCEOC) BUILDING RENOVATION.  
 RENOVATION OF IMPROVEMENTS TO THE HCEOC BUILDING AT THE OLD HILO MEMORIAL HOSPITAL, TO INCLUDE ASBESTOS REMOVAL.  
 CONSTRUCTION 45  
 TOTAL FUNDING AGS 45C C

3. HP3402 LANAKILA MULTI-PURPOSE SENIOR CENTER, OAHU.  
 ROOF AND CONCRETE FOUNDATION AT THE LANAKILA MULTI-PURPOSE SENIOR CENTER.  
 DESIGN 1  
 CONSTRUCTION 8  
 TOTAL FUNDING AGS 9C C

4. HP2501 RENOVATION OF BUILDINGS LOCATED AT 2117 PALOLO AVENUE, OAHU.  
 RENOVATE CLASSROOMS TO PERMIT USE AS A CHILD CARE FACILITY.  
 TAX MAP KEY 3-4-06-2.

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		CONSTRUCTION TOTAL FUNDING	AGS		5 5C		C
<b>AGS232 - GROUNDS MAINTENANCE</b>							
5.	HP0506	KEAKEALANI STATE BUILDING, HAWAII.					
		REMOVE OVERGROWN TREE. CONSTRUCTION TOTAL FUNDING	AGS		10 10C		C
<b>SUB201 - CITY &amp; COUNTY OF HONOLULU</b>							
6.	HP2308	AINA HAINA PLAYGROUND, OAHU.					
		IMPROVEMENTS. GRANTS-IN-AID. CONSTRUCTION TOTAL FUNDING	CCH		5 5C		C
7.	SP0902	CAMP KAILANI COMMUNITY CENTER, OAHU.					
		RENOVATE CENTER. CONSTRUCTION TOTAL FUNDING	AGS		300 300C		C
8.	HP2405	DIAMOND HEAD ROAD, OAHU.					
		IMPROVEMENT OF DIAMOND HEAD ROAD FROM KAPIOLANI PARK TO TRIANGLE PARK. DESIGN TOTAL FUNDING	CCH		92 92C		C
9.	HP3802	FERN ELEMENTARY SCHOOL, OAHU.					
		SIDEWALK ON THE MAUKA SIDE OF OMILO LANE FROM THE REAR EXIT OF FERN SCHOOL RUNNING PARAL- LEL WITH ST. JOHN'S SCHOOL. TO BE MATCHED BY THE CITY AND COUNTY OF HONOLULU. DESIGN CONSTRUCTION TOTAL FUNDING	CCH		1 11 12C		C
10.	HP2505	HOKULANI SCHOOL, OAHU.					
		REPLACEMENT OF WATER MAIN AT ENTRANCE OF HOKULANI SCHOOL. CONSTRUCTION TOTAL FUNDING	CCH		50 50C		C
11.	HP3808	KAMEHAMEHA FIELD, OAHU.					
		MULTI-PURPOSE BUILDING. TO BE MATCHED BY THE CITY AND COUNTY OF HONOLULU.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN			10		
		CONSTRUCTION			185		
		TOTAL FUNDING	CCH		195C		C
12.	SP0815	KAMEHAMEHA HIGHWAY, OAHU.					
		GRANT-IN-AID TO THE CITY FOR DESIGN AND CONSTRUCTION TO EXTEND THE KAILUA-BOUND, LEFT-TURN ONLY, LANE AT THE INTERSECTION OF KAMEHAMEHA HIGHWAY AND PUA INIA STREET.					
		DESIGN			2		
		CONSTRUCTION			18		
		TOTAL FUNDING	CCH		20C		C
13.	JP1106	KAMILOIKI COMMUNITY PARK, OAHU.					
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENTS TO THE PARK, INCLUDING NEW BALL FIELDS. FUNDS TO BE MATCHED BY THE CITY AND COUNTY OF HONOLULU.					
		PLANS			2		
		DESIGN			29		
		CONSTRUCTION			167		
		EQUIPMENT			2		
		TOTAL FUNDING	CCH		200C		C
14.	HP2601	KAPAHULU AVENUE WIDENING, BEAUTIFICATION, AND PARKING PROJECT, OAHU.					
		IMPROVEMENTS INCLUDING PARKING BAYS, LANDSCAPING, AND PARKING STRUCTURES.					
		GRANTS-IN-AID.					
		CONSTRUCTION			100		
		TOTAL FUNDING	CCH		100C		C
15.	HP2311	KAPAOLONO PLAYGROUND IMPROVEMENTS, OAHU.					
		ROOM DIVIDERS AND OTHER IMPROVEMENTS.					
		GRANTS-IN-AID.					
		PLANS			2		
		DESIGN			2		
		CONSTRUCTION			1		
		EQUIPMENT			5		
		TOTAL FUNDING	CCH		10C		C
16.	HP2310	KILAUEA RECREATION CENTER, OAHU.					
		PLAYGROUND EQUIPMENT AND OTHER IMPROVEMENTS.					
		GRANTS-IN-AID.					
		PLANS			1		

ACT 217

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		CONSTRUCTION EQUIPMENT			1		
		TOTAL FUNDING	CCH		3		
					5C		C
17.	SP1107	KOKOHEAD COMMUNITY PARK, OAHU.					
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR NEW BALL FIELDS. FUNDS TO BE MATCHED BY THE CITY AND COUNTY OF HONOLULU.					
		PLANS			10		
		DESIGN			15		
		CONSTRUCTION			165		
		EQUIPMENT			10		
		TOTAL FUNDING	CCH		200C		C
18.	HP3418	KUAKINI STREET EXTENSION PARK, OAHU.					
		PARK AT LANAKILA AVENUE AND KUAKINI STREET EXTENSION.					
		DESIGN			12		
		TOTAL FUNDING	CCH		12C		C
19.	HP3417	LANAKILA PLAYGROUND AND GYM COMPLEX, OAHU.					
		LANAKILA GYM IMPROVEMENTS. GRANTS-IN-AID.					
		CONSTRUCTION			30		
		TOTAL FUNDING	CCH		30C		C
20.	HP3416	LANAKILA PLAYGROUND, OAHU.					
		IMPROVEMENTS TO SOFTBALL FIELD. GRANTS-IN-AID.					
		CONSTRUCTION			20		
		TOTAL FUNDING	CCH		20C		C
21.	HP2309	MAUNALANI PLAYGROUND IMPROVEMENTS, OAHU.					
		RECONDITIONING PLAYGROUND FIELD AND OTHER IMPROVEMENTS. GRANTS-IN-AID.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			8		
		TOTAL FUNDING	CCH		10C		C
22.	HP3805	MOANALUA VALLEY NEIGHBORHOOD PARK, OAHU.					
		PURCHASE AND INSTALL PLAYGROUND EQUIPMENT. TO BE MATCHED BY THE CITY AND COUNTY OF HONOLULU.					
		CONSTRUCTION			2		



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		EQUIPMENT		8	
		TOTAL FUNDING	CCH	10C	C
23.	SP1909	OMILO LANE, OAHU.			
		CONSTRUCTION OF ASPHALT CONCRETE WALKWAY ON UNPAVED SIDEWALK ON OMILO LANE TO COVER SLOPE FROM ERRODING. CHILDREN WALKING TO AND FROM SCHOOL ON MUDDY SLOPE CREATES VERY UNSAFE CONDITION AND HAZARD.			
		CONSTRUCTION		15	
		TOTAL FUNDING	CCH	15C	C
24.	HP2804	28TH DISTRICT SIDEWALKS, OAHU.			
		CONCRETE FOOTPATH ON DOLE STREET BETWEEN METCALF AND ALEXANDER STREETS ON MAKAI SIDE OF DOLE STREET, AND OTHER LOCATIONS IN THE 28TH DISTRICT.			
		CONSTRUCTION		70	
		TOTAL FUNDING	CCH	70C	C
25.	JP2319	WAIPAHA CULTURAL GARDEN PARK, WAIPAHA, OAHU.			
		DESIGN AND CONSTRUCTION OF SECURITY FENCING.			
		DESIGN		3	
		CONSTRUCTION		29	
		TOTAL FUNDING	CCH	32C	C
26.	HP2302	WATER DISTRIBUTION SYSTEM, OAHU.			
		EXTENSION OF WATER DISTRIBUTION SYSTEM, LAI ROAD, PALOLO VALLEY, OAHU.			
		CONSTRUCTION		120	
		TOTAL FUNDING	CCH	120C	C
27.	HP2307	WILSON PLAYGROUND IMPROVEMENTS, OAHU.			
		IMPROVEMENT OF OUTDOOR BASKETBALL COURT AND OTHER AREA. GRANTS-IN-AID.			
		CONSTRUCTION		5	
		TOTAL FUNDING	CCH	5C	C
SUB301 - COUNTY OF HAWAII					
28.	SP1803	COUNTY OF HAWAII WATER PROJECTS, HAWAII.			
		STUDIES, INVESTIGATIONS, EXPLORATIONS, AND DEVELOPMENT FOR THE PRUDENT UTILIZATION OF SURFACE AND GROUNDWATER RESOURCES			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		AND IMPROVEMENT OF WATER QUALITY FOR INSTREAM USES, INCLUDING IMPROVEMENTS TO EXISTING WATER SYSTEMS AND NECESSARY APPURTENANCES.					
		CONSTRUCTION		100			
		TOTAL FUNDING	COH	100C			C
29.	HP2905	CULTURAL AND ARTS CENTER, HILO, HAWAII.					
		RESTORE THE OLD HILO POLICE STATION.					
		GRANTS-IN-AID.					
		PLANS		5			
		DESIGN		5			
		CONSTRUCTION		50			
		TOTAL FUNDING	COH	60C			C
30.	HP0501	HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL, HAWAII.					
		KEAUHOU DISTRICT OFFICE CHILD DAY CARE BUILDING AND KAILUA CHILD DAY CARE BUILDING IMPROVEMENTS.					
		CONSTRUCTION		15			
		TOTAL FUNDING	SOC	15C			C
31.	SP0104	KAPOHO-PAHOIKI WATER TRANSMISSION PIPELINE, HAWAII.					
		PLANS, DESIGN, AND CONSTRUCTION OF KAPOHO-PAHOIKI WATER TRANSMISSION PIPELINE.					
		CONSTRUCTION		250			
		TOTAL FUNDING	COH	250C			C
32.	JP0301	NEW GYM FACILITY AT PAPAIKOU, HAWAII.					
		NEW GYM FACILITY AT PAPAIKOU, HAWAII.					
		PLANS		10			
		DESIGN		10			
		CONSTRUCTION		330			
		TOTAL FUNDING	COH	350C			C
33.	HP0504	OLD KONA AIRPORT PARK, HAWAII.					
		IMPROVEMENT OF OLD TERMINAL BUILDINGS FOR USE BY TORCH.					
		CONSTRUCTION		20			
		TOTAL FUNDING	COH	20C			C
34.	JP0102	OLD KONA AIRPORT PARK GYMNASIUM, HAWAII.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL YEAR 1987-88	FISCAL YEAR 1988-89
		OLD KONA AIRPORT PARK GYMNASIUM FOR GROUND PREPARATION AND CONSTRUCTION OF GYM.		190	
		CONSTRUCTION		190C	C
		TOTAL FUNDING	COH		
35.	HP0509	OLD KONA AIRPORT CARGO BUILDING, HAWAII.			
		IMPROVEMENTS FOR PARK SECURITY.		40	
		CONSTRUCTION		40C	C
		TOTAL FUNDING	COH		
36.	HP0408	PAHOA COMMUNITY CENTER, HAWAII.			
		BALL FIELD LIGHTING.		10	
		DESIGN		90	
		CONSTRUCTION		100C	C
		TOTAL FUNDING	COH		
37.	JP0304	RECREATIONAL COMPLEX, PEPEEKEO, HAWAII.			
		RECREATIONAL COMPLEX AT PEPEEKEO, HAWAII.		20	
		PLANS		25	
		DESIGN		45C	C
		TOTAL FUNDING	COH		
38.	HP0602	WAIKALOA PARK, WAIKALOA, HAWAII.			
		INFRASTRUCTURE TO DEVELOP A PARK.		30	
		GRANTS-IN-AID.		30C	C
		CONSTRUCTION			
		TOTAL FUNDING	COH		
39.	HP0411	WATER SYSTEM IMPROVEMENTS AND DEVELOPMENTS, HAWAII.			
		INCREMENTAL DEVELOPMENTS, PIPELINES, BOOSTER PUMP STATIONS, STORAGE FACILITIES, INCLUDING RESERVIORS, IMPROVEMENTS TO EXISTING WATER SYSTEMS AND NECESSARY APPURTENANCES FOR THE FOLLOWING PROJECTS			
		A. KALAPANA-KAIMU WATERLINE PHASE IV			
		B. KAPOHO-POHOIKI WATER SYSTEM			
		C. AHUALOA-HONOKAA TRANSMISSION IMPRV.			
		D. POHAKEA WATER SYSTEM IMPROVEMENT			

**ACT 217**

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		E. PAAUILO-KAAO TRANSMISSION IMPRV.					
		F. KEAAU-PAHOA TRUNKLINE CONSTRUCTION			180		
		TOTAL FUNDING	COH		180C		C
<b>SUB401 - COUNTY OF MAUI</b>							
40.	SP0520	RECREATIONAL/CULTURAL CENTER, KAUNAKAKAI, MOLOKAI.					
		PLAN AND DESIGN A RECREATIONAL/CULTURAL CENTER FOR MOLOKAI YOUTH IN KAUNAKAKAI.					
		PLANS			10		
		TOTAL FUNDING	AGS		10C		C
41.	JP0403	UKUMEHAME RIFLE RANGE, MAUI.					
		CONSTRUCTION OF RIFLE RANGE FOR HUNTERS, POLICE AND NATIONAL GUARD AND ARMY RESERVE OFFICERS. TO BE MATCHED BY COUNTY FUNDS.					
		CONSTRUCTION			250		
		TOTAL FUNDING	COM		250C		C
42.	SP0401	UP COUNTRY COMMUNITY CENTER, PUKALANI, MAUI.					
		DESIGN AND CONSTRUCTION OF UP COUNTRY CENTER, PUKALANI. TO BE MATCHED BY COUNTY OF MAUI.					
		DESIGN			10		
		CONSTRUCTION			200		
		TOTAL FUNDING	COM		210C		C
<b>SUB501 - COUNTY OF KAUAI</b>							
43.	JP2408	ASSOCIATION OF RETARDED CITIZENS, KAUAI.					
		CONSTRUCTION OF OFFICE BUILDING.					
		CONSTRUCTION			100		
		TOTAL FUNDING	COK		100C		C
44.	JP2407	BRENNECKE BEACH, KAUAI.					
		BRENNECKE BEACH PARK ACQUISITION.					
		LAND			120		
		TOTAL FUNDING	COK		120C		C
45.	JP2416	KAUAI ECONOMIC OPPORTUNITY, KAUAI.					
		PLANNING AND DESIGN OF OFFICE BUILDING.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		DESIGN			50		
		TOTAL FUNDING	COK		50C		C
46.	JP2415	LIHUE NEIGHBORHOOD CENTER, KAUAI.					
		PLANNING AND DESIGN OF LIHUE NEIGHBORHOOD CENTER.					
		DESIGN			40		
		TOTAL FUNDING	COK		40C		C
47.	JP2418	RICE STREET SAFETY AND TRAFFIC - CIRCULATION IMPROVEMENTS, KAUAI.					
		RICE STREET SAFETY AND TRAFFIC - CIRCULATION IMPROVEMENTS.					
		DESIGN			13		
		CONSTRUCTION			107		
		TOTAL FUNDING	COK		120C		C

SECTION 3. The appropriations and authorizations in section 2 of this Act include land purchase, plans, design, site preparation, improvements to land, construction, equipment, and necessary off-site improvements.

SECTION 4. Where an agency is able to secure funds or other property from private organizations or individuals, to be expended or utilized in connection with any program authorized by this Act, the governor, or agency with the governor's approval, shall have the power to enter into each undertaking.

SECTION 5. If the State should assume direct operation of any nongovernmental agency receiving state funds under the provisions of this Act, all such funds shall constitute a credit to the State against the costs of acquiring all or any portion of the property, real, personal, or mixed, or such nongovernmental agency. The credit shall be applicable regardless of when such acquisition takes place.

SECTION 6. Any law or any provision of this Act to the contrary notwithstanding, all authorizations for capital improvement projects made for fiscal year 1987-88 which are unencumbered as of June 30, 1990 shall lapse as of that date, provided that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement if the legislature redetermines that such projects are essential.

SECTION 7. Act 347, Session Laws of Hawaii 1986, section 2, Item EDN 105-209, is amended to read as follows:

"209. JSP020 Waiakea [Uka] Elementary and Intermediate School, Hawaii [Master plan and design for a "new" elementary school in the Hilo area.  
 PLANS

DESIGN	88		
TOTAL FUNDING	AGSC		175C]
<u>Planning, design, and construction of a driveway and parking facility.</u>			
DESIGN	25		
CONSTRUCTION	150		
TOTAL FUNDING	AGS	C	175C"

SECTION 8. Act 347, Session Laws of Hawaii, 1986, section 2, Items EDN 105-87 and EDN 105-88, are amended to read as follows:

- “87. HP2101 Kaiser High School, Oahu  
Plans, design, [and] construction and equipment for [installation of improved lighting for track and football field] new girls' locker room facilities.
- |               |     |   |      |
|---------------|-----|---|------|
| PLANS         | 2   |   |      |
| DESIGN        | 2   |   |      |
| CONSTRUCTION  | 31  |   |      |
| EQUIPMENT     | 90  |   |      |
| TOTAL FUNDING | AGS | C | 125C |
88. HP2104 Kaiser High School, Oahu  
Plans, design, [and] construction and equipment for [completion of stadium, including additional bleachers, ticket booth, renovation of, and expansion of entrance/exit and sidewalk] new girls' locker room facilities.
- |               |     |   |       |
|---------------|-----|---|-------|
| PLANS         | 10  |   |       |
| DESIGN        | 10  |   |       |
| CONSTRUCTION  | 205 |   |       |
| EQUIPMENT     | 25  |   |       |
| TOTAL FUNDING | AGS | C | 250C" |

SECTION 9. If general obligation bond proceeds have been allocated to an authorization which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such authorization, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other authorizations which may be satisfied from general obligation bond proceeds made in the same or any other act of the legislature; provided that a report of such allocations for the period ending December 31 of each year shall be made to the legislature by February 1, of the following year.

SECTION 10. The designated expending agency for capital improvements authorized in this Act is authorized to delegate to other state or county agencies the acquisition of land, design, and construction of such projects when it is determined by such agency that it is advantageous to do so; provided that a report of all such delegations for the period ending December 31 of each calendar year shall be made to the first regular session of the legislature convened after such delegations have been made.

SECTION 11. Where county capital improvement projects are partially or totally funded by state funds as authorized in this Act or any other act of the legislature, this fact should be appropriately acknowledged during construction and upon completion of these projects.

SECTION 12. The negotiation for the purchase of land by state agencies shall be subject to the approval of the governor. Private lands may be acquired for the purpose of exchange for federal lands when the governor determines that such acquisition and exchange are necessary for the completion of any projects authorized in this Act.

SECTION 13. Any law or any provision to the contrary notwithstanding, the governor may supplement funds for any early-phased cost element (design or land) for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds authorized for later-phased cost elements (land or construction) for the same project authorized by the legislature in this Act or in a prior year or which may be authorized by the legislature in the future.

SECTION 14. Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a capital improvement project described in this Act, the governor may authorize such reduction of project scope; provided that the scope of a project shall not be reduced merely because the authorization for a project is insufficient.

SECTION 15. In releasing funds for projects, the governor shall consider the legislative intent and the objectives of the user agency, its programs, the scope and level of the user agency's intended services; the means, efficiency, and economics by which the project will meet the objectives of the user agency and the State. Agencies responsible for construction shall take into consideration the objectives of the user agency, its programs, the scope and level of the user agency's intended service and construct the improvement to meet the objectives of the user agency in the most efficient and economical manner possible.

SECTION 16. No authorization in this Act shall be considered to be a mandate under Article VIII, Section 5 of the State Constitution, for a political subdivision to undertake new programs or to increase the level of services under existing programs of that political subdivision. If any authorization in this Act falls within the provision of Article VIII, Section 5 of the State Constitution, such authorization shall be void, and in the case of capital improvement authorizations designated to be financed from the general obligation bond fund, the total general obligation bonds authorized under section 2 of this Act shall be correspondingly decreased.

SECTION 17. If the amount specified for any capital improvement project is not totally required to complete the work of such project or after it is definitely found by the expending officer that not more than a specified amount will be required to complete such work, such unrequired amount may be expended with the approval of the governor for any other capital improvement project authorized by the legislature in this Act or in a prior year or which may be authorized by the legislature in the future.

SECTION 18. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific authorization is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such authorization to the extent possible. If any portion of a specific lapse is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion

**ACT 218**

and such remaining portion shall be lapsed to fulfill the objective of such lapse to the extent possible.

SECTION 19. If manifest clerical, typographical, or other mechanical errors are found in this Act, the governor is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 20. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 21. This Act shall take effect on July 1, 1987.)

(Approved June 22, 1987.)

**ACT 218**

H.B. NO. 287

A Bill for an Act Relating to the Office of Hawaiian Affairs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to appropriate moneys to the Office of Hawaiian Affairs.

SECTION 2. Unless otherwise clear from the context, as used in this Act:

(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the Office of Hawaiian Affairs (OHA) followed by a designated number for the program.

(b) "Means of financing," or "MOF," means the source from which funds are appropriated, or authorized, as the case may be, to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meaning:

- A general fund
- B special fund

(c) "Position ceiling" means the maximum number of permanent positions authorized for a particular program during a specified period or periods, as noted by an asterisk.

SECTION 3. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or authorized, as the case may be, from the sources of funding specified to the Office of Hawaiian Affairs for the fiscal biennium beginning July 1, 1987, and ending June 30, 1989. The total general fund expenditures and the number of permanent established positions in each fiscal year of the fiscal biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided in this Act.

**PROGRAM APPROPRIATIONS**

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F

1. OHA100 - Office of the Administrator



## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	OHA	2.50*		2.50*	
			OHA	148,093A		149,892A	
			OHA	2.50*		2.50*	
			OHA	188,838B		191,252B	
2.		OHA101 - Administrative Services					
		OPERATING	OHA	3.00*		3.00*	
			OHA	224,080A		204,228A	
			OHA	3.00*		3.00*	
			OHA	248,055B		228,203B	
3.		OHA102 - Public Information					
		OPERATING	OHA	2.00*		2.00*	
			OHA	113,852A		110,244A	
			OHA	2.00*		2.00*	
			OHA	128,841B		125,233B	
4.		OHA103 - Human Resources					
		OPERATING	OHA	1.50*		1.50*	
			OHA	74,287A		71,191A	
			OHA	1.50*		1.50*	
			OHA	85,873B		82,777B	
5.		OHA104 - Planning and Development					
		OPERATING	OHA	2.00*		2.00*	
			OHA	127,485A		132,588A	
			OHA	2.00*		2.00*	
			OHA	143,063B		148,165B	
6.		OHA105 - Culture					
		OPERATING	OHA	1.50*		1.50*	
			OHA	76,872A		41,637A	
			OHA	1.50*		1.50*	
			OHA	88,306B		53,071B	
7.		OHA106 - Government Affairs					
		OPERATING	OHA	4.50*		4.50*	
			OHA	145,057A		116,628A	
			OHA	4.50*		4.50*	
			OHA	173,787B		145,359B	
8.		OHA107 - Land and Natural Resources					
		OPERATING	OHA	1.25*		1.25*	
			OHA	199,108A		197,353A	
			OHA	1.25*		1.25*	
			OHA	208,231B		206,476B	
9.		OHA108 - Economic Development					
		OPERATING	OHA	1.50*		1.50*	
			OHA	75,357A		87,861A	
			OHA	1.50*		1.50*	
			OHA	86,718B		99,222B	
10.		OHA109 - Education					
		OPERATING	OHA	1.50*		1.50*	
			OHA	80,378A		97,304A	
			OHA	1.50*		1.50*	
			OHA	91,812B		108,738B	

## ACT 219

SECTION 4. Provided that whenever the need arises, the chairperson of the trustees for the Office of Hawaiian Affairs is authorized to transfer sufficient funds and positions between programs for research and development and operating purposes; provided that a report for all such transfers shall be made to the legislature not less than twenty days prior to the convening of the 1988 and 1989 legislative session.

SECTION 5. Provided that the Office of Hawaiian Affairs and the State of Hawaii shall share equally in the costs of wages and fringe benefits paid for employees of the Office of Hawaiian Affairs. Fringe benefits shall be defined as benefits received by public employees, including hospital, medical, and dental care under the public employees health fund, temporary disability insurance, unemployment insurance, life and long term disability insurance, workers compensation, social security, and retirement benefits.

SECTION 6. Provided that the Office of Hawaiian Affairs shall develop appropriate detailed plans to address the social concerns of Hawaiians and native Hawaiians; provided further that the Office of Hawaiian Affairs shall submit a detailed report of the plans, means of implementation, and expected accomplishments to the legislature not less than twenty days prior to the convening of the 1988 legislative session.

SECTION 7. Provided that the Office of the Administrator (OHA 100), shall develop appropriate measures of effectiveness for the purpose to properly monitor and evaluate implementation and performance of all programs; provided further that the Office of Hawaiian Affairs shall submit a detailed report of the program expenditures by types of funding and the accomplishments of each program to the legislature not less than twenty days prior to the convening of the 1988 and 1989 legislative sessions.

SECTION 8. Provided that of the funds appropriated for office of the administrator (OHA 100), the sum of \$5,000 for fiscal year 1987-88 and \$5,000 for fiscal year 1988-89 shall be used as a protocol fund.

SECTION 9. Provided that of the funds appropriated for planning and development (OHA 104), the sum of \$80,000 for fiscal year 1987-88 and \$80,000 for fiscal year 1988-89 shall be used for the purpose of matching funds for federal grants; provided further that the funds not expended for the above purpose shall revert back into the general fund.

SECTION 10. Provided that of the funds appropriated for education (OHA 109), the sum of \$32,000 for fiscal year 1988-89 shall be used for the purpose of the tutorial program.

SECTION 11. This Act shall take effect on July 1, 1987.

(Approved June 22, 1987.)

## ACT 219

S.B. NO. 141

A Bill for an Act Relating to State Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in Article VII, section 13, of the State Constitution which states: "Effective July 1, 1980, the legislature shall include a declaration of findings in every general

law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.”, the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the State is set forth in Article VII, section 13, of the State Constitution, which states in part: “General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance.” Article VII, section 13, also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including “reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year.”
- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1986-1987 and estimated for each fiscal year from 1987-1988 to 1990-1991, is as follows:

<u>Fiscal Year</u>	<u>Net General Fund Revenues</u>	<u>Debt Limit</u>
1983-84	\$ 1,320,280,833	
1984-85	1,439,541,519	
1985-86	1,569,777,922	
1986-87	1,667,861,000	\$ 266,992,017
1987-88	1,792,891,000	288,426,127
1988-89	1,893,152,000	310,216,012
1989-90	2,002,139,000	330,157,413
1990-91	(Not applicable)	350,771,223

For fiscal years 1986-87, 1987-88, 1988-89, 1989-90, and 1990-91, respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 1983-84, 1984-85, and 1985-86 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1986, dated November 25, 1986. The net general fund revenues for fiscal years 1986-87 to 1989-90 are estimates, based on general fund revenue estimates made as of March 13, 1987, by the council on revenues, the body assigned by Article VII, section 7, of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the

purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit. As certified by the director of finance in the most recent Certificate of the Debt Limit of the State of Hawaii dated April 2, 1987, the total amount of principal and interest on outstanding general obligation bonds for determining the power of the State to issue general obligation bonds within the debt limit is as follows for fiscal year 1987-88 to fiscal year 1993-94:

<u>Fiscal Year</u>	<u>Principal and Interest</u>
1987-88	\$ 217,376,590
1988-89	215,361,382
1989-90	212,452,185
1990-91	202,735,144
1991-92	192,718,830
1992-93	180,515,932
1993-94	164,681,772

The Certificate of Debt Limit as of April 2, 1987, further shows that the amount of principal and interest on outstanding bonds applicable to the debt limit continues to decline each year from fiscal year 1993-94 to fiscal year 2011-12 when the final installment of \$15,347 shall be due and payable.

- (4) Amount of authorized and unissued general obligation bonds and bonds authorized by this Act. As calculated from the state comptroller's bond fund report as of February 28, 1987, adjusted for the issuance of \$80,000,000 general obligation bonds dated March 1, 1987, Series BH, and further adjusted for the lapsing of prior appropriations amounting to \$15,169,054 as provided in H.B. No. 2, H.D. 1, S.D. 1, C.D. 1 (the General Appropriations Act of 1987)<sup>1</sup>, the total amount of authorized but unissued general obligation bonds is \$262,597,554. The total amount of general obligation bonds authorized by this Act is \$427,667,000. The total amount of general obligation bonds previously authorized and unissued and the general obligation bonds authorized by this Act is \$690,264,554.
- (5) Proposed general obligation bond issuance. As reported by the department of budget and finance for fiscal years 1987-88, 1988-89, 1989-90, and 1990-91, the State proposes to issue \$80,000,000 semiannually in the fiscal year 1987-88, \$80,000,000 during the first half of fiscal year 1988-89 and two series of \$80,000,000 each during the second half of fiscal year 1988-89 and \$80,000,000 semiannually during the fiscal years 1989-90 and 1990-91. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds maturing in substantially equal installments of principal, and interest payments commencing six months from the date of issuance and being paid semiannually thereafter. It is assumed that this practice will continue to be applied to the bonds which are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds

which the State proposes to issue during fiscal years 1987-88 through 1989-90 is \$560,000,000. An additional \$160,000,000 is proposed to be issued in fiscal year 1990-91. The total amount of \$560,000,000 which is proposed to be issued through fiscal year 1989-90 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, and the bonds authorized by this Act, the total amount of which is \$690,264,554, as reported in paragraph (4), except for \$130,264,554. It is assumed that the appropriations to which an additional \$130,264,554 in bond issuance needs to be applied will have been encumbered as of June 30, 1990. The \$160,000,000 which is proposed to be issued in fiscal year 1990-91 will be sufficient to meet the requirements of the June 30, 1990, encumbrances in the amount of \$130,264,554. The amount of assumed encumbrances as of June 30, 1990, is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of authorized and unissued bonds, as adjusted, and the bonds authorized by this Act versus the amount of bonds which is proposed to be issued by June 30, 1990, and the amount of June 30, 1990, encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1990-91, the legislature finds that in the aggregate, the amount of bonds which is proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.

- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds. General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:
- (A) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
  - (B) While at the present time all of the special funds which are required to make reimbursements to the general fund on bonds issued are in a condition to qualify all of the reimbursable bonds for exclusion, it cannot be stated with certainty that such a condition will continue.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, as reported in the Certificate of Debt Limit of the State of Hawaii as of April 2, 1987, the average proportion of principal and interest which is excludable each year from calculation against the debt limit is 12.63 per cent for the ten years from fiscal year 1987-88 to fiscal year 1996-97. For the purpose of this declaration, the assumption is made that ten per cent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that

all of the bonds identified in paragraph (5) will be issued at an interest rate of 9.5 per cent, the maximum allowable by law, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, and the bonds authorized by this Act, will not cause the debt limit to be exceeded at the time of each bond issuance:

<u>Time of Issuance and Amount to be Counted Against Debt Limit</u>	<u>Debt Limit at Time of Issuance</u>	<u>Greatest Amount and Year of Highest Principal and Interest</u>
1st half FY 1987-88 \$72,000,000	\$ 288,426,127	\$ 222,201,382 (FY 1988-89)
2nd half FY 1987-88 \$72,000,000	\$ 288,426,127	\$ 229,041,382 (FY 1988-89)
1st half FY 1988-89 \$72,000,000	\$ 310,216,012	\$ 232,972,184 (FY 1989-90)
2nd half FY 1988-89 \$72,000,000	\$ 310,216,012	\$ 239,812,184 (FY 1989-90)
2nd half FY 1988-89 \$72,000,000	\$ 310,216,012	\$ 246,652,184 (FY 1989-90)
1st half FY 1989-90 \$72,000,000	\$ 330,157,413	\$ 252,621,187 (FY 1991-92)
2nd half FY 1989-90 \$72,000,000	\$ 330,157,413	\$ 259,461,187 (FY 1991-92)
1st half FY 1990-91 \$72,000,000	\$ 350,771,223	\$ 262,881,187 (FY 1991-92)
2nd half FY 1990-91 \$72,000,000	\$ 350,771,223	\$ 266,849,027 (FY 1992-93)

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 2. The legislature finds the basis for the declaration of findings set forth in this Act are reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that such matters must remain subject to substantial flexibility.

SECTION 3. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in H.B. No. 2, H.D. 1, S.D. 1, C.D. 1 (the General Appropriations Act of 1987), H.B. No. 49, H.D. 1, S.D. 2, C.D. 1 (the Judiciary Appropriations Act of 1987), H.B. No. 1469, H.D. 2, S.D. 1 (Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor), and S.B. No. 1660, H.D. 1, C.D. 1 (Relating to Capital Improvement Projects),<sup>2</sup> passed by this Regular Session of 1987, and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of the general obligation bonds so issued shall not exceed \$427,667,000.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with section 39-13, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

SECTION 4. The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

SECTION 5. In printing this Act, the revisor of statutes shall substitute in sections 1 and 3 the corresponding act numbers for bills identified therein.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 22, 1987.)

Notes

1. Act 216, this volume.
2. Acts 216, 375, 214, and 217, respectively, this volume.

ACT 220

H.B. NO. 328

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.

*Be It Enacted by the Legislature of the State of Hawaii:*

PART I

SECTION 1. There are hereby appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, and Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1987-89 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representatives of collective bargaining unit 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, and 13:

	<u>FY 1987-88</u>	<u>FY 1988-89</u>
General Funds	\$ 21,528,514	\$ 49,797,934
Special Funds	\$ 3,993,951	\$ 9,614,015
Federal Funds	\$ 1,793,446	\$ 4,128,991
Other Funds	\$ 298,952	\$ 693,499

SECTION 2. Funds appropriated or authorized by this Part shall be allotted by the director of finance in the respective fiscal years for the purposes of this Part.

PART II

SECTION 3. There are hereby appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1987-89 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 1, 2, 3, 4, 9, 10, and 13:

	<u>FY 1987-88</u>	<u>FY 1988-89</u>
--	-------------------	-------------------

**ACT 221**

General Funds	\$ 1,496,844	\$ 3,067,758
Special Funds	\$ 52,334	\$ 106,623

**SECTION 4.** Funds appropriated or authorized by this Part shall be allotted by the chief justice in the respective fiscal years for the purposes of this Part.

**PART III**

**SECTION 5.** Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

**SECTION 6.** Funds appropriated or authorized by this Act which are not expended or encumbered by June 30, 1988, and June 30, 1989, of the respective fiscal years shall lapse as of those dates.

**SECTION 7.** This Act shall take effect on July 1, 1987.

(Approved June 22, 1987.)

**ACT 221**

**H.B. NO. 418**

**A Bill for an Act Relating to State Officers and Employees Excluded from Collective Bargaining and Making Appropriations and Other Adjustments.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

**SECTION 1.** There are hereby appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, and Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1987-89 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining:

	<u>FY 1987-88</u>	<u>FY 1988-89</u>
General Funds	\$ 3,363,007	\$ 7,814,678
Special Funds	\$ 314,420	\$ 715,400
Federal Funds	\$ 246,890	\$ 563,755
Other Funds	\$ 93,623	\$ 215,067

**SECTION 2.** Funds appropriated or authorized by this Part shall be expended by the director of finance in the respective fiscal years for the purposes of this Part.

**PART II**

**SECTION 3.** There are hereby appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1987-89, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, by the chief justice for officers and employees excluded from collective bargaining:

FY 1987-88

FY 1988-89



General Funds	\$ 167,679	\$ 344,882
Special Funds	\$ 718	\$ 1,477

SECTION 4. The sums appropriated or authorized by this Part shall be expended by the chief justice in the respective fiscal years for the purposes of this Part.

**PART III**

SECTION 5. There are appropriated out of the general revenues of the State of Hawaii to the legislative agencies indicated below, the following sums, or so much thereof as may be necessary, to fund the fiscal biennium 1987-89, the salary increases for officers and employees in these agencies excluded from collective bargaining:

FY 1987-88

Office of the Legislative Auditor	\$ 43,000
Ethics Commission	\$ 6,615
Legislative Reference Bureau	\$ 33,012
Ombudsman	\$ 11,000

SECTION 6. The sums appropriated by this part shall be expended by the respective heads of the legislative agencies.

**PART IV**

SECTION 7. There are hereby appropriated or authorized from the sources of funding indicated below the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1987-89, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for officers and employees of the office of Hawaiian affairs:

	<u>FY 1987-88</u>	<u>FY 1988-89</u>
General Funds	\$ 32,826	\$ 67,671
Special Funds	\$ 32,826	\$ 67,671

SECTION 8. Funds appropriated or authorized by this Part shall be expended by the office of Hawaiian affairs in the respective fiscal years for the purpose of this part.

**PART V**

SECTION 9. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately as the case may be, from the respective funds.

SECTION 10. Funds appropriated or authorized by this Act which are not expended or encumbered by June 30, 1988, and June 30, 1989, of the respective fiscal years shall lapse as of those dates.

SECTION 11. This Act shall take effect on July 1, 1987.

(Approved June 22, 1987.)

A Bill for an Act Relating to Highway Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-26, Hawaii Revised Statutes, is amended to read as follows:

**“§286-26 Certificates of inspection.** (a) The following vehicles shall be certified as provided in subsection (e) once every six months:

- (1) Motor vehicles ten years of age or older, except antique motor vehicles as defined in section 249-1,
- (2) (1) Ambulances,
- [(3)] (2) Trucks, truck-tractors, semitrailers, or pole trailers having a gross vehicle weight rating of more than 10,000 pounds,
- [(4)] (3) Buses,
- [(5)] (4) Rental or U-drive motor vehicles,
- [(6)] (5) Taxi cabs.

(b) All other vehicles, including antique motor vehicles as defined in section 249-1, except those in subsections (c) and (d), shall be certified as provided in subsection (e) every twelve months.

(c) Any vehicle which has been involved in an accident shall be certified as provided in subsection (e) before it is operated again if:

- (1) It is determined by a police officer or an insurer that the vehicle's equipment has been damaged so as to render the vehicle unsafe; or
- (2) It is rebuilt or restored.

(d) Every vehicle shall be certified prior to the issuance of a temporary or permanent registration by the director of finance and prior to the transfer of any registration; provided that this requirement shall not apply to a subsequent transfer of registration in a vehicle which carries a current certificate of inspection.

(e) Upon application for a certificate of inspection to be issued on a vehicle, an inspection as prescribed by the director ~~[[of transportation]]~~ under subsection (f) shall be conducted on the vehicle and if the vehicle is found to be in a safe operating condition, a certificate of inspection shall be issued upon payment of a fee to be determined by the council of each county. A sticker, authorized by the director ~~[[of transportation]]~~, shall be affixed to the vehicle at the time a certificate of inspection is issued.

(f) The director ~~[[of transportation]]~~ shall adopt necessary rules and regulations for the administration of inspections, the issuance of certificates of inspection, and the acceptance of certificates of inspection issued in other jurisdictions.

(g) This section shall not apply to:

- (1) Any motor vehicle which is covered by part XI of this chapter, governing safety of motor carrier vehicle operation and equipment; provided the rules adopted pursuant to part IA, impose standards of inspection at least as strict as those imposed under subsection (f), and that certification is required at least as often as provided in subsections (a), (b), (c), and (d); and
- (2) Aircraft servicing vehicles which are being used exclusively on lands set aside to the department of transportation for airport purposes.

(h) As part of the inspection required by this section the owner of the vehicle to be inspected shall produce and display the no-fault insurance

identification card for the inspected motor vehicle required by section 294-8.5 or the proof of insurance card required by section 294-12.6. If no card is displayed then the sticker authorized by the state director of transportation shall not be affixed to the vehicle and the certificate of inspection shall not be issued."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 22, 1987.)

## ACT 223

S.B. NO. 1024

A Bill for an Act Relating to Intoxicating Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-17, Hawaii Revised Statutes, is amended to read as follows:

"§281-17 **Jurisdiction and powers.** The liquor commission, within its own county, shall have the sole jurisdiction, power, authority, and discretion, subject only to this chapter:

- (1) To grant, refuse, suspend, and revoke any licenses for the manufacture, importation, and sale of liquors;
- (2) To control, supervise, and regulate the manufacture, importation, and sale of liquors by investigation, enforcement, and education; provided that any educational program shall be limited to licensees and their employees and shall be financed through the money collected from the assessment of fines against licensees;
- (3) From time to time to make, amend, and repeal such rules, not inconsistent with this chapter, as in the judgment of the commission seem appropriate for carrying out this chapter and for the efficient administration thereof, and the proper conduct of the business of all licensees, including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission; which rules, when adopted as provided in chapter 91 shall have the force and effect of law;
- (4) Subject to chapters 76 and 77, to appoint and remove a secretary (who may also be appointed an inspector), and such inspectors and clerical or other assistants as its business may from time to time require, to prescribe their duties, and fix their compensation; to engage the services of experts and persons engaged in the practice of a profession, if deemed expedient. Every inspector, within the scope of the inspector's duties, shall have the powers of a police officer. No employee of any commission, aside from exercising the right to vote, shall support, advocate, or aid in the election or defeat of any candidate for public office, and upon satisfactory proof of such prohibited activity the offender shall be summarily dismissed;
- (5) To limit the number of licenses of any class or kind within the county, or the number of licenses of any class or kind to do

- business in any given locality, when in the judgment of the commission such limitations are in the public interest;
- (6) To prescribe the nature of the proof to be furnished, the notices to be given, and the conditions to be met or observed in case of the issuance of a duplicate license in place of one alleged to have been lost or destroyed, including a requirement of any indemnity deemed appropriate to the case;
  - (7) To fix the hours between which licensed premises of any class or classes may regularly be open for the transaction of business, which shall be uniform throughout the county as to each class respectively;
  - (8) To prescribe all forms to be used for the purposes of this chapter not otherwise provided for in this chapter, and the character and manner of keeping of books, records, and accounts to be kept by licensees in any matter pertaining to their business;
  - (9) To investigate violations of this chapter and chapter 244D, through its inspectors or otherwise, to include covert operations, and to report such violations to the prosecuting officer for prosecution and, where appropriate, the director of taxation to hear and determine complaints against any licensee; to subpoena and examine witnesses under oath and require the production of, and examine any of the books, papers, and records of any licensee which may pertain to the licensee's business under the license or which shall or may pertain to any matter at any hearing or investigation by or before the commission. Each member of the commission may investigate any matter of which the commission may take cognizance, and take testimony in the same manner as any court and neither the commission nor any member shall be bound by the strict legal rules of evidence;
  - (10) To prescribe, by rule, the terms, conditions, and circumstances under which persons or any class of persons may be employed by holders of dispensers' and cabaret licenses;
  - (11) To prescribe, by rule, the term of any license or solicitor's and representative's permit authorized by this chapter, the annual or prorated amount and the manner of payment of fees for such licenses and permits, and the amount of filing fees.

The commission and each member thereof shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses and the production of documentary evidence, and examining the witnesses as are possessed by a circuit court.

The exercise by the commission of the power, authority, and discretion in it so vested shall be final in each case and shall not be reviewable by or appealable to any court or tribunal, except as otherwise provided in this chapter or chapter 91."

SECTION 2. Section 281-45, Hawaii Revised Statutes, is amended to read as follows:

**"§281-45 Reasons for refusal. (a)** The commission may refuse to grant a license under this chapter:

- (1) To any minor or to any person who has been convicted of a felony and not pardoned, or to any other person not deemed by the commission to be a fit and proper person to have a license;
- (2) To a corporation the officers and directors of which, or any of them, would be disqualified under paragraph (1) of this section from obtaining the license individually, or a stockholder of

which, owning or controlling twenty-five per cent or more of the outstanding capital stock would be disqualified under such paragraph (1) from obtaining the license individually[;].

**(b) No license shall be issued under this chapter:**

- [(3)] (1) Unless the applicant for a license, or a renewal[.] of a license, or in the case of a transfer of a license, both the transferor and the transferee presents to the issuing agency, a signed certificate from the director of taxation and from the Internal Revenue Service showing that the applicant and the transferor or transferee does not owe the state or federal governments any delinquent taxes, penalties, or interest;
- [(4)] (2) To any applicant who has had any liquor license revoked less than two years previous to the date of the application for any like or other license under this chapter.”

SECTION 3. Section 281-91, Hawaii Revised Statutes, is amended to read as follows:

“**§281-91 Revocation or suspension of license; hearing.** The liquor commission may revoke any license at any time issued, or suspend the right of the licensee to use the licensee’s license, or assess and collect a penalty, or reprimand the licensee, either for the violation of any condition of the license or of any provisions of this chapter or of any rule or regulation applicable thereto, or upon the conviction at law of the licensee of any violation of this chapter or of any other law relative to the licensee’s license or the proper exercise thereof, or of any violation of law in any other respect on account whereof the commission may deem the licensee to be an unfit or improper person to hold a license, or for any other cause deemed sufficient by the commission.

In every case where it is proposed to revoke or suspend the exercise of any license or assess and collect a penalty for any cause other than a conviction at law of the licensee as above specified, the licensee shall be entitled to notice and hearing in conformity with chapter 91, the notice to be given at least five days before the hearing, except that any special license shall be subject to summary revocation for any violation of or evidence of intent to violate the proper exercise thereof, without hearing before the commission; provided that the exercise of a license shall in no case be suspended or revoked for any violation (other than a conviction at law of the licensee as above specified) based upon the personal observation of any inspector, unless written notice of the violation charged to have occurred shall have been given to the licensee within ten working days after the alleged violation occurred, and the licensee shall have been given a hearing upon the charge not more than [sixty] ninety nor less than five days after the giving of notice of the alleged violation.

At the hearing, before final action is taken by the commission, the licensee shall be entitled to be heard in person or through counsel and shall be given a full and fair opportunity to present any facts showing that the alleged cause or causes for the proposed action do not exist, or any reasons why no penalty should be imposed. The testimony taken at the hearing shall be under oath and recorded stenographically, or by machine, but the parties shall not be bound by the strict rules of evidence; certified copies of any transcript and of any other record made of or at the hearing shall be furnished to the licensee upon the licensee’s request and at the licensee’s expense.

Any order of revocation or suspension or reprimand imposed by the commission upon the licensee shall be in addition to any penalty that might

## ACT 224

be imposed upon the licensee upon the licensee's conviction at law for any violation of this chapter. No licensee shall be subject to both the penalty assessed and collected by the commission and to revocation or suspension of license. The amount of penalty assessed and collected by the commission from any licensee for any particular offense shall not exceed the sum of ~~[\$500]~~ \$2,000.

Whenever the service of any order or notice shall be required by this section such service shall be made in the following manner: in the case of any violation based upon the personal observation of any inspector, a written notice of the violation, signed by the inspector observing the violation charged to have occurred shall be given to the licensee or the licensee's registered manager in active charge of the premises within ten working days after the alleged violation occurred, or by serving a certified copy of the notice or order upon the holder of the license wherever the holder may be found in the circuit wherein the holder is licensed, or, if the holder cannot be found after diligent search, by leaving a certified copy thereof at the holder's dwelling house or usual place of abode with some person of suitable age and discretion residing therein; and if the holder of the license cannot be found after diligent search, and service cannot be made, then service may be made by posting a certified copy of the notice or order in a conspicuous place on the licensed premises and depositing another certified copy thereof in the registered mail of the United States post office, postage prepaid, addressed to the holder of the license at the holder's last known residence address; provided that in the case of a licensed corporation or unincorporated association service may be made upon any officer thereof."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 22, 1987.)

## ACT 224

H.B. NO. 706

A Bill for an Act Relating to Wages and Hours.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 387-2, Hawaii Revised Statutes, is amended to read as follows:

"§387-2 Minimum wages. Except as provided in section 387-9 and this paragraph, every employer shall pay to each employee employed by the employer wages at the rate of not less than: \$2.65 per hour beginning July 1, 1978; \$2.90 per hour beginning July 1, 1979; \$3.10 per hour beginning July 1, 1980; [and] \$3.35 per hour beginning July 1, 1981[.]; and \$3.85 per hour beginning January 1, 1988. The hourly wage of a tipped employee may be deemed to be increased on account of tips if the employee is paid not less than twenty cents below the applicable minimum wage by the employee's employer and the combined amount the employee receives from the employee's employer and in tips is at least fifty cents more than the applicable minimum wage."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

## SECTION 3. This Act shall take effect upon its approval.

(Approved June 22, 1987.)

## ACT 225

S.B. NO. 1000

## A Bill for an Act Relating to Public Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to implement the several recommendations made by the consultants in their job evaluation study of selected job classes in the State of Hawaii, Judiciary, City and County of Honolulu, and the counties of Hawaii, Maui, and Kauai, as mandated by Act 157, Session Laws of Hawaii 1986.

SECTION 2. Definitions. As used in this Act, unless the context requires otherwise:

“Compensated higher or lower than expected” means the pay rates of the class as determined by the consultant’s analysis based on minimum and maximum salary data of a bargaining unit.

“Employer” means the State of Hawaii, Judiciary, City and County of Honolulu and the counties of Hawaii, Maui and Kauai.

“Valued higher or lower than expected” means the value or salary range assignment of the class as determined by the consultants’ analysis based on the job evaluation system.

SECTION 3. Classes identified as valued lower than expected: storekeeper I, account clerk III, account clerk IV, library technician VI, and agricultural research technician IV. Such classes shall be increased by one salary range effective July 1, 1987. In addition, the following classes in these series shall also be increased one salary range, in order to maintain appropriate relationships: account clerk V, storekeeper II, library technician VII, and agricultural research technician V and VI. The pay rate of existing employees in these classes shall be adjusted in accordance with rules pertinent to repricing.

Comparable classes at the same salary ranges in the counties and Judiciary as well as the class storekeeper III in the City and County of Honolulu shall also be adjusted one salary range.

SECTION 4. Classes identified as compensated lower than expected: security attendant I, social service aid III, agricultural research technician III, special education teacher III, librarian III, and environmental health specialist III. The pay of existing employees in these classes and in comparable county and Judiciary classes shall be increased by a step movement to the next higher step in their respective salary range effective July 1, 1987.

SECTION 5. Each class contained in sections 3 and 4 of this Act shall be examined by the Conference of Personnel Directors, in consultation with the appropriate exclusive representative, in accordance with the 1987 biennial review of the compensation plan mandated by section 77-4, Hawaii Revised Statutes, to identify other classes or series which are closely related for pricing purposes under section 77-4. The Conference shall identify any adjustments of such classes necessary to assure that salary range levels of such related classes are in proper relation to the classes referenced in section 3 and to those found valued and compensated appropriately in the study.

**ACT 226**

**SECTION 6.** The examination called for in section 5 shall not include adjustments to classes or series which are deemed properly valued and/or compensated by the job evaluation study directed by Act 156<sup>1</sup>, Session Laws of Hawaii 1986, nor shall it be construed to require or permit an overhaul of the compensation plan nor to mandate any changes which are not clearly required.

**SECTION 7.** Class identified as valued and compensated higher than expected: computer operator II. Classes identified as compensated higher than expected: legal stenographer I, data processing control clerk I, building construction inspector II, highway construction inspector III, elevator inspector, meat inspector IV, clinical psychologist VI, registered professional nurse III, and registered professional nurse IV. The employees in such classes shall not suffer any adverse effect on their rights, benefits, and compensation as a result of the job evaluation study directed by Act 157, Session Laws of Hawaii 1986.

**SECTION 8.** The employers shall submit a report of the examinations referenced in section 5 of this Act to the legislature no later than twenty days prior to the convening of the regular session of 1988. The report shall contain the cost and plan of any adjustments resulting from such examinations.

**SECTION 9.** There is appropriated out of the general revenues of the State of Hawaii a sum not to exceed \$850,000, or so much thereof as may be necessary for fiscal year 1987-1988 to fund the adjustments in sections 3 and 4 of this Act which shall not be a part of the wage negotiation cost package.

**SECTION 10.** The sum appropriated shall be expended by the employers for the purposes of this Act.

**SECTION 11.** This Act shall take effect upon its approval.

(Approved June 23, 1987.)

**Note**

1. Should be "157".

**ACT 226**

**S.B. NO. 1158**

**A Bill for an Act Relating to Counsel and Other Services for Indigent Criminal Defendants.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 802-11, Hawaii Revised Statutes, is amended to read as follows:

**"§802-11 Appointment of state public defender.** The state public defender shall be appointed by the defender council without regard to chapters 76, 77, and 89. The state public defender's appointment shall be for a term of four years except as otherwise provided herein, and until the state public defender's successor is appointed and qualified. The state public defender shall be qualified to practice law before the supreme court of this State. Effective January 1, [1986,] 1987, the salary of the state public defender shall be [\$55,404] \$61,560 a year. The state public defender shall devote full time to the performance of the state public defender's duties and shall not engage in the general practice of law."



SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sums of \$3,078 for fiscal year 1986-87, \$6,156 for fiscal year 1987-88, and \$6,156 for fiscal year 1988-89, or so much thereof as may be necessary to provide the salary increase and retroactive salary payment for the state public defender whose salary is increased under this Act. The sum appropriated shall be expended by the department of budget and finance.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall be retroactive to January 1, 1987.

(Approved June 23, 1987.)

ACT 227

S.B. NO. 1443

A Bill for an Act Relating to the Appointment of Counsel for Indigents.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 802-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The court shall determine the amount of reasonable compensation to appointed counsel, based on the rate of [~~\$30~~] \$40 an hour for out-of-court services, and [~~\$40~~] \$60 an hour for in-court services and with a maximum fee in accordance with the following schedule:

(1)	[Class A] Any felony case	[\$2,000]	<u>\$3,000</u>
[2]	Any other felony case	1,500	
(3)	(2) Misdemeanor case - jury trial	[1,000]	<u>1,500</u>
[4]	(3) Misdemeanor case - jury waived	[500]	<u>750</u>
[5]	(4) Appeals to the supreme court or intermediate appellate court		
		[1,500]	<u>2,500</u>
[(6)]	(5) Petty misdemeanor case	[300]	<u>450</u>
	[(7)] Post conviction proceeding	1,500	
(8)	(6) Any other type of administrative or judicial proceeding including cases arising under chapter 571	[1,000]	<u>1,500</u>

Payment in excess of any maximum provided for under paragraphs (1), (2), and (5), where extended or complex representation is needed, may be made for good cause shown on the record by the appointing judge, but shall not exceed an amount twice the maximum allowable fees for such representation.] (1) to (6) may be made whenever the court in which the representation was rendered certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the administrative judge of such court.”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$879,263, or so much thereof as may be necessary for fiscal year 1987-1988, and \$728,709, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purpose of this Act. The sums appropriated shall be expended by the department of budget and finance for the purpose of this Act.

**ACT 228**

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect July 1, 1987.

(Approved June 23, 1987.)

**ACT 228**

S.B. NO. 317

A Bill for an Act Relating to the Hawaii Community Development Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 268, Session Laws of Hawaii 1985, is amended by amending section 2 to read as follows:

“SECTION 2. **Issuance of revenue bond; amount authorized.** Revenue bonds may be issued by the authority pursuant to part III, chapter 39, Hawaii Revised Statutes, and part IV, chapter 206E, Hawaii Revised Statutes, in an aggregate principal amount not to exceed [~~\$15,000,000,~~ \$35,000,000, at such times and in such amounts as it deems advisable for the purpose of undertaking, operating, and maintaining public facilities provided under chapter 206E, Hawaii Revised Statutes.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 23, 1987.)

**ACT 229**

S.B. NO. 379

A Bill for an Act Relating to Public Contracts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 103-22, Hawaii Revised Statutes, is amended to read as follows:

“**§103-22 Advertisement for bids required; exceptions.** No expenditure of public money, except salaries or pay of officers or employees, or permanent settlements, subsidies or other claims or objects for which a fixed sum must be paid by law, or for other purposes which do not admit of competition, or for the purchase of materials or supplies from any other department, bureau, organization, or municipal or political subdivision of the federal, state, municipal or county governments, other than University of Hawaii bookstores, or for the performance of public work or contracts by any other such department, bureau, organization, or municipal or political subdivision of the federal, state, municipal or county governments, where the sum to be expended is \$8,000 or more shall be made except under contract let after public advertisement for sealed tenders, in the manner provided by law. In all cases of expenditures of public money that is more than \$4,000 but less than \$8,000, a call for informal bids shall be published at least once in a newspaper of general circulation printed and published within the State; provided that [in]:

- (1) In the case of public works or repairs and maintenance of buildings, roads and other site improvements where the expenditure is more than \$4,000 but less than \$15,000, a call for informal bids shall be published at least once in a newspaper of general circulation printed and published within the State[.]; and
- (2) In the case of the repair of publicly owned or leased heavy equipment, automotive equipment, and sewage treatment plants where the expenditure is more than \$4,000 but less than \$10,000, the expenditure may be made without public advertisement for sealed tenders or a call for informal bids.

No expenditures for public purposes shall be so divided or parceled as to defeat or evade this section.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that on July 1, 1989, this Act shall be repealed and section 103-22, Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of this Act.

(Approved June 23, 1987.)

## ACT 230

S.B. NO. 436

A Bill for an Act Relating to Amending Various Provisions of the Hawaii Revised Statutes to Correct References to Repealed Chapter 191, Hawaii Revised Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 134-3, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) Each chief of police may issue permits, within the chief’s jurisdiction, to acquire firearms to citizens of the United States of the age of eighteen years or more, and to duly accredited official representatives of foreign nations. Each chief of police may also issue permits to aliens of the age of eighteen years or more for use of rifles and shotguns for a period not exceeding sixty days, after the alien has first procured a hunting license under sections [191-1 to 191-6,] ~~183D-21 to 183D-25~~, or may issue permits to acquire firearms to aliens who are duly commissioned law enforcement officers in the State. However, any law enforcement officer who is the owner of a firearm and who is an alien shall transfer ownership of the firearm within forty-eight hours after termination of employment from a law enforcement agency.”

SECTION 2. Section 134-4, Hawaii Revised Statutes, is amended to read as follows:

“~~§134-4~~ **Transfer of rifles and shotguns.** (a) No transfer of any rifle or shotgun having a barrel length of eighteen inches or over, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, shall be made in any event to any person under the age of eighteen years, and no person under the age of

## ACT 230

eighteen years shall possess [any such] the rifle or shotgun, except as provided by section 134-5.

(b) It shall be unlawful for any person to own or possess [such] a rifle, unless the person is a citizen of the United States, or an alien who has procured a hunting license under sections [191-1 to 191-6] 183D-21 to 183D-25 and a firearms permit under section 134-3.

(c) Any person who violates this section shall be fined not more than \$500 or imprisoned not more than one year, or both."

SECTION 3. Section 134-5, Hawaii Revised Statutes, is amended to read as follows:

**"§134-5 Possession by licensed hunters and minors; issuance of permits.** (a) Any person of the age of sixteen years or over, or any person under the age of sixteen years while accompanied by an adult, may carry and use any lawfully acquired rifle or shotgun and suitable ammunition while actually engaged in hunting or target shooting, or while going to and from the place of hunting or target shooting, if the person has procured a hunting license under [section 191-1 to 191-5 and] sections 183D-21 to 183D-25; provided that minors shall also obtain a permit pursuant to subsection (b) and provided further that a hunting license shall not be required for persons engaging in target shooting.

(b) The chief of police of each county may issue permits to citizens of the United States who are minors, but such permits shall be limited to the sole purpose of carrying and using any rifle or shotgun as provided in subsection (a). This permit shall expire one year from the date of issuance and shall be valid in all counties.

(c) Any lawfully acquired firearm may be loaned to another, even though the other person is a minor, upon a target range or similar facility for a period not longer than to allow the other person to then and there use it for target shooting, without a permit."

SECTION 4. Section 150A-4, Hawaii Revised Statutes, is amended to read as follows:

**"[~~§150A-4~~] Effect on department of land and natural resources and the department of health.** Nothing in this chapter shall be construed to amend or alter the functions, duties, and powers of the department of land and natural resources and the department of health relative to chapters 171, [187, 191,] 183D, 187A, 197, 321, and 328."

SECTION 5. Section 711-1109.3, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Nothing in this section shall prohibit any of the following:

- (a) The use of dogs in the management of livestock by the owner of the livestock or the owner's employees or agents or other persons in lawful custody thereof;
- (b) The use of dogs in hunting [on private lands permitted by section 191-18;] wildlife including game; or
- (c) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 23, 1987.)

## ACT 231

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 2, Special Session Laws of Hawaii 1986, section 3, is amended by amending subsections (a), (b), and (c) to read as follows:

“(a) The insurance commissioner shall effect a moratorium and not approve any rate level increase in commercial liability insurance during the period August 1, 1986 to September 30, 1986. Commencing October 1, 1986, all authorized insurers transacting commercial liability insurance in this State shall implement a ten per cent rate reduction from the rates currently on file with the insurance commissioner for all policies containing commercial liability coverage, except motor vehicle and medical malpractice policies, in effect on September 30, 1986, for each new and renewal policy and provide that the new rates will be in effect and filed during the period October 1, 1986 to September 30, 1987. There shall be no exception to the requirements of this subsection, unless the commissioner, pursuant to an insurer’s petition, shall find that the use of the rates required herein by an insurer will be inadequate to the extent that such rates jeopardize the solvency of the insurer required to use such rates.

(b) Commencing on October 1, 1987, all authorized insurers providing commercial liability insurance in this State shall implement a twelve per cent rate reduction for all policies containing commercial liability coverage, except motor vehicle<sup>1</sup> and medical malpractice policies issued by mutual or reciprocal insurers, from the rates in effect on September 30, 1987, for each new and renewal policy, and provide that the new rates will be in effect and filed during the period October 1, 1987 to September 30, 1988.

(c) Commencing on October 1, 1988, all authorized insurers providing commercial liability insurance in this State shall implement a fifteen per cent rate reduction for all policies containing commercial liability coverage, except motor vehicle<sup>1</sup> and medical malpractice policies issued by mutual or reciprocal insurers, from the rates in effect on September 30, 1988, for each new and renewal policy, and provide that the new rates will be in effect and filed during the period October 1, 1988 to September 30, 1989[.]; provided that for purposes of this section, a mutual or reciprocal insurer shall include in any rate filing, information and data regarding the expected impact of the tort reform implemented by sections 11 through 22 of Act 2, First Special Session Laws of Hawaii, 1986.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 23, 1987.)

Note

1. Prior to amendment, “policies” appeared here.

## ACT 232

A Bill for an Act Relating to Ballots.

*Be It Enacted by the Legislature of the State of Hawaii:*

## ACT 232

SECTION 1. Section 11-1, Hawaii Revised Statutes, is amended by amending the definition of "ballot" to read:

"Ballot," a ballot including an absentee ballot is a written or printed, or partly written and partly printed paper or papers containing the names of persons to be voted for, the office to be filled, and the questions or issues to be voted on. A ballot may consist of one or more cards or pieces of paper, or one face of a card or piece of paper, or a portion of the face of a card or piece of paper, depending on the number of offices, candidates to be elected thereto, questions or issues to be voted on, and the voting system in use. It shall also include the face of the mechanical voting machine when arranged with cardboard or other material within the ballot frames, containing the names of the candidates and questions to be voted on."

SECTION 2. Section 12-21, Hawaii Revised Statutes, is amended to read as follows:

**"§12-21 Official party ballots.** [There shall be only one primary or special primary ballot for each party qualifying under the provisions of sections 11-61 or 11-62.

The primary or special primary ballot shall be clearly designated as such, and shall also be designated according to party. The names of candidates shall be arranged as provided for in section 11-115; provided that in elections using the electronic voting system, the names of all candidates seeking the same office shall be printed on the same side of the ballot card; provided further that if the names of all candidates seeking the same office exceed the maximum number of voting positions on a single side of a ballot card, such names shall then be arranged and listed on both sides of the ballot card or on separate ballot cards.]

The primary or special primary ballot shall be clearly designated as such. The names of the candidates of each party qualifying under section 11-61 or 11-62 and of nonpartisan candidates may be printed on separate ballots, or on a single ballot. The name of each party and the nonpartisan designation shall be distinctly printed and sufficiently separate from each other. The names of all candidates shall be printed on the ballot as provided in section 11-115. When the names of all candidates of the same party for the same office exceed the maximum number of voting positions on a single side of a ballot card, the excess names may be arranged and listed on both sides of the ballot card and additional ballot cards if necessary. When separate ballots for each party are not used, the order in which parties appear on the ballot, including nonpartisan, shall be determined by lot.

The chief election officer or the county clerk, in the case of county elections, shall approve printed samples or proofs of the respective party ballots as to uniformity of size, weight, shape, and thickness prior to final printing of the official ballots."

SECTION 3. Section 11-22,<sup>1</sup> Hawaii Revised Statutes is repealed:

[**"§12-22 Official nonpartisan ballots.** There shall be only one primary or special primary ballot containing the names of all nonpartisan candidates to be voted for and the offices for which they are candidates. The ballot shall be clearly designated as the nonpartisan primary or special primary ballot and shall conform in all other respects to the requirements relative to official party ballots."]

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

## SECTION 5. This Act shall take effect upon its approval.

(Approved June 23, 1987.)

## Note

1. So in original.

## ACT 233

H.B. NO. 377

## A Bill for an Act Relating to the Environmental Council.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 341-3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) There is created an environmental council not to exceed fifteen members. Except for the director, members of the environmental council shall be appointed by the governor as provided in section 26-34. The council shall be [placed within] attached to the department of health for administrative purposes. Except for the director, the term of each member shall be four years; provided that, of the members initially appointed, five members shall serve for four years, five members shall serve for three years, and the remaining four members shall serve for two years. Vacancies shall be filled for the remainder of any unexpired term in the same manner as original appointments. The director shall be an ex officio voting member of the council. The council chairperson shall be elected by the council from among the appointed members of the council.

Members shall be appointed to assure a broad and balanced representation of educational, business, and environmentally pertinent disciplines and professions, such as the natural and social sciences, the humanities, architecture, engineering, environmental consulting, public health, and planning; educational and research institutions with environmental competence; agriculture, real estate, visitor industry, construction, media, and voluntary community and environmental groups. The members of the council shall serve without compensation but shall be reimbursed for expenses, including travel expenses, incurred in the discharge of their duties.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 23, 1987.)

## ACT 234

H.B. NO. 464

## A Bill for an Act Relating to Smoking in Public Places.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Smoking of tobacco in all forms has been demonstrated to be harmful to the health of smokers. There are documented studies to indicate that it may also be harmful to nonsmokers. It is estimated that seventy-five per cent of the population of Hawaii does not smoke. There is

## ACT 234

no reason for the great majority of our people to inhale the smoke of others which pollutes enclosed areas.

It is the purpose of this Act to protect the public health, comfort, and environment by providing a uniform statewide code to regulate smoking in public places.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### **“CHAPTER SMOKING IN PUBLIC PLACES**

§ -1 **Definitions.** As used in this chapter, unless the context requires otherwise:

“Building” means any area enclosed by a roof and at least three walls.

“Open to the public” means areas within any building available to the general public during normal business hours.

“Restaurant” means any retail eating establishment authorized by the department of health to operate as a restaurant; except:

- (1) Any restaurant with a seating capacity of fifty or fewer patrons;
- (2) Any restaurant while it is being used solely for private parties or gatherings;
- (3) Any enclosed room of a restaurant, or a banquet room used solely for private parties or gatherings;
- (4) Any private restaurant or club to which only members or their guests are permitted;
- (5) Any seating area completely outside the building housing the restaurant; or
- (6) Bars.

“Retail store” means any establishment organized for retailing goods including but not limited to food and grocery stores.

“Small business” means those business establishments having not more than five employees working on the business premises per established work shift.

“Smoke” or “smoking” includes inhaling or exhaling upon, burning, or carrying any lit cigarette, cigar, or pipe.

§ -2 **Prohibition in certain places open to the public.** Except as otherwise provided in this chapter, smoking shall be prohibited in the following places within the State:

- (1) Elevators in buildings open to and used by the public, including elevators in apartment and other multi-unit residential buildings;
- (2) Semiprivate rooms, wards, waiting rooms, lobbies, and public hallways of public and private health care facilities, including, but not limited to, hospitals, clinics, and physicians’ and dentists’ offices. Smoking shall be permitted in a private room or in a semiprivate room when there is no objection by any patient occupying such room;
- (3) Restaurants.
  - (A) All restaurants shall provide nonsmoking areas which are reasonably proportionate to the preference of the users and so located as to obtain the maximum effect of existing



physical barriers and ventilation systems, and seating arrangements, to minimize the toxic effect of smoke in adjacent nonsmoking areas; provided no fixed structural or other physical modifications of the restaurant shall be required; and

- (B) Nothing in this paragraph shall prevent a proprietor or person in charge of a facility from designating the entire restaurant as a nonsmoking area. Owners or proprietors of restaurants may expand or contract the size of designated nonsmoking areas to meet the requirements of their patrons;
- (4) Any room which is used primarily for exhibiting any motion picture, stage drama, dance, musical performance, or other similar performance during the time that the room is open to the public for such performance;
- (5) Museums, libraries, and galleries;
- (6) The following facilities or areas in state or county owned or controlled buildings:
  - (A) Meeting or conference rooms;
  - (B) Auditorium or sports areas that are enclosed;
  - (C) Community centers where persons may gather for meetings, parties, or any other purpose where the area is enclosed;
  - (D) Waiting areas, baggage claim areas, and check-in counters within buildings in all state airports; and
  - (E) All areas open to the public, including service counters and reception or waiting areas;
- (7) Except as otherwise provided in this section, all areas open to the public in the following business establishments:
  - (A) Banks;
  - (B) Credit unions;
  - (C) Industrial loan companies;
  - (D) Retail stores; and
  - (E) Savings and loan associations;
- (8) Any restroom open to the public;
- (9) Taxicabs, when carrying non-smoking passengers; and
- (10) Notwithstanding the exceptions stated in section -3, any area open to the public which has been designated by the person having control of the area as a nonsmoking area and marked with a "no smoking" sign.

§ -3 **Exceptions.** Smoking shall not be prohibited under this chapter in the following places subject to section -2:

- (1) Small businesses;
- (2) Retail stores with less than 5000 square feet of floor space.

§ -4 **Signs.** (a) Clearly legible signs which include the words "Smoking Prohibited by Law" with letters of not less than one inch in height shall be conspicuously posted by the persons having control of such places open to the public where smoking is prohibited.

(b) "SMOKING PROHIBITED BY LAW" signs shall be posted in areas adjacent to smoking areas so that a clear delineation exists.

(c) In the case of any restaurant designated as a smoking area in its entirety, the restaurant owner or manager shall post a sign stating, "This entire establishment is a SMOKING area," or a similar statement. The sign shall be posted conspicuously at all entrances normally used by the public.

## ACT 234

(d) Restaurants with controlled seating, where patrons do not seat themselves, may place a sign at the dining area entry which indicates the availability of smoking and nonsmoking areas upon request in lieu of the posting requirements of this section.

(e) Alternate means of notification may be employed.

**§ -5 Penalties and procedures.** (a) It is a violation for any person to violate any of the provisions of this chapter.

Every person who violates any provision of this chapter for which another penalty is not provided, for a conviction thereof, shall be fined not more than \$20 to be deposited into the state general fund. The district courts may assess costs not to exceed \$25 for issuing a penal summons upon any person who fails to appear at the place within the time specified in the citation issued to the person.

(b) Any authorized police officer, upon making an arrest, shall take the name and address of the alleged violator and shall issue the violator in writing a summons or citation.

(c) There shall be provided for use by an officer or employee of the respective government jurisdictions, duly authorized to issue a summons or citation, or any police officer, a form of summons or citation for use in citing violators of this chapter which does not provide for the physical arrest of such violators. The form and content of such summons or citation shall be as adopted or prescribed by the administrative judge of the district court, shall be printed on a form commensurate with the form of other summons or citations used in modern methods of arrest, and so designed to include all necessary information to make the same valid within the laws and rules of the State.

When a citation is issued, the original of the citation shall be given to the violator; provided that the administrative judge of the district court may prescribe that the violator be given a carbon copy of the citation and provide for the disposition of the original and any other copies. Every citation shall be consecutively numbered and each carbon copy shall bear the same number as its respective original.

(d) If any person fails to comply with a penal summons given to such person, the court shall forthwith issue a warrant for the person's arrest.

(e) Except as provided in subsection (g), enforcement of this chapter shall be under the jurisdiction of the appropriate police department of each county or the prosecuting attorney or other duly authorized government officer or employee.

(f) Any police officer or other officer or employee of the respective government jurisdictions may eject from the premises any person to whom a citation has been issued and who continues to smoke after the person has been so cited.

(g) The enforcement and administration of section -4 shall be under the jurisdiction of each respective government jurisdiction which shall have the power to adopt any applicable rules necessary to carry out section -4.

**SECTION 3.** Nothing shall prohibit a county from enacting ordinances more stringent than the provisions of this Act.

**SECTION 4.** Chapter 321, part XVII, Hawaii Revised Statutes, is repealed.

**SECTION 5.** This Act shall take effect ninety days after its approval.

(Approved June 23, 1987.)

## ACT 235

H.B. NO. 581

A Bill for an Act Relating to the Office of Narcotics Enforcement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to transfer the office of narcotics enforcement to the department of the attorney general.

SECTION 2. All rights, powers, functions, and duties of the office of narcotics enforcement of the department of health are transferred to the department of the attorney general.

All officers and employees and their positions, whose functions are transferred by this Act, shall be transferred with their functions and positions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act.

SECTION 3. All appropriations, positions, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of health relating to the functions transferred to the department of the attorney general shall be transferred with the functions to which they relate.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1, or so much thereof as may be necessary for fiscal years 1987-1989, to the department of the attorney general. The sum appropriated shall be expended by the department of the attorney general by distributing this amount to various county law enforcement agencies for their respective drug and narcotics control and enforcement programs.

SECTION 5. This Act shall take effect July 1, 1988.

(Approved June 23, 1987.)

## ACT 236

H.B. NO. 652

A Bill for an Act Relating to Used Oil Recycling and Disposal.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to establish minimum requirements governing the transportation, recycling, and disposal of used oil. Such requirements are intended to: (1) prevent pollution of the drinking water supply or waters of the State; (2) prevent air pollution; (3) conserve natural resources; and (4) protect public health and safety.

SECTION 2. Chapter 342, Hawaii Revised Statutes is amended by adding a new part to be appropriately designated and to read as follows:

**“PART  
USED OIL TRANSPORT, RECYCLING AND DISPOSAL**

**§342- Definitions.** As used in this chapter, unless the context otherwise requires:

“Department” means the department of health.

## ACT 236

“Director” means the director of health or the director’s duly authorized agent.

“Recycled used oil” means used oil that is reused or prepared for reuse as a petroleum product.

“Specification fuel” means recycled used oil which meets specific standards that are set by the director. These standards, at a minimum, shall comply with those set by the federal Environmental Protection Agency for specification fuel.

“Used oil” means a petroleum-based oil which through use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

“Used oil transporter” means any person who transports more than five hundred gallons of used oil annually.

**§342- Exemptions.** The following persons and organizations are exempt from this part:

- (1) Second-time transporters, marketers and burners of specification fuel; and
- (2) Electric public utilities and other facilities which use used oil as specification fuel in industrial boilers; provided that the used oil is generated by the facility and that the requirements established under section 342-22 are complied with.

**§342- Prohibited acts.** (a) No new oil, used oil or recycled oil shall be discharged into sewers, drainage systems, surface or ground waters, watercourses, or marine waters.

(b) No used oil transporter shall collect, transport, transfer, temporarily store, or market used oil unless the person possesses a permit to transport issued under this part.

(c) No used oil transporter shall deliver used oil to any person with the knowledge that the oil will be improperly disposed of in violation of this part.

(d) No person shall recycle, market, burn, or accept used oil for final disposal without first obtaining authorization from the department.

(e) No used oil shall be discharged onto the ground for dust suppression without prior written approval from the department and the landowner.

**§342- Used oil transport vehicles; identification required.** The department shall require used oil transporters to identify such vehicles used for the transport of used oil.

**§342- Recordkeeping requirements.** (a) Each used oil transporter shall provide a signed voucher to each person surrendering or accepting the used oil when used oil is picked up or delivered. The voucher, as a minimum, shall show the quantity of used oil, name and address of the person surrendering or accepting the used oil, pick-up location, and the proposed or actual final destination.

(b) Records shall be maintained for three years.

(c) First-time marketers and burners of specification fuel shall maintain analyses of recycled used oil which initially defined the material as specification fuel. A copy of the analyses of the specification fuel shall be delivered with the invoice to the second-time transporter, marketer and burner of the specification fuel.

(d) The department may require recordkeeping and the submittal of records for persons who transport, recycle, burn, or accept used oil for final disposal.

**§342- Fees.** The director may establish reasonable fees for the issuance of permits and variances to cover the cost of issuance thereof. The fees shall be deposited to the credit of the general fund.

**§342- Inspection of premises; examination of records.** The director may enter premises to inspect any facility, storage tank, or vehicle or examine the records required under this chapter.

**§342- Cooperation with other agencies.** The department shall coordinate its activities and functions under this chapter with the department of planning and economic development and other state agencies to avoid duplication in reporting and information gathering.

**§342- Rules.** The director shall adopt rules in accordance with chapter 91 necessary to carry out this part."

SECTION 3. Section 342-11, Hawaii Revised Statutes, is amended to read as follows:

**"§342-11 Penalties.** (a) Violation of the vehicular noise control and vehicular smoke emission rules adopted by the department pursuant to this chapter shall constitute a violation as defined in section 701-107 and shall be enforceable by police officers. The fine for this violation shall be not less than \$25 nor more than \$2,500 for each separate offense. Each day of violation shall constitute a separate offense.

(b) Violation of the open burning control rules adopted by the department pursuant to this chapter shall constitute a violation as defined in section 701-107 and shall be enforceable by police officers. The fine for this violation shall not exceed \$10,000 for each separate offense. Each day of violation shall constitute a separate offense.

(c) Any person who violates this chapter or any rule, other than vehicular noise control, vehicular smoke emission control, and open burning control rules, shall be fined not more than \$10,000 for each separate offense. Each day of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection, other than the penalty imposed for violations of vehicular noise control, vehicular smoke emission, and open burning rules, shall be considered a civil action.

(d) Any person who knowingly (1) transports any hazardous waste to a storage, treatment, or disposal facility and who does not have a permit under section 342-53(b) to treat, store<sup>1</sup> or dispose of that particular hazardous waste; (2) treats, stores<sup>1</sup> or disposes of hazardous waste without first having a permit under section 342-53(b); or (3) makes a false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with chapter 342, part V, shall be subject to criminal penalties of not more than \$25,000 for each day of violation or to imprisonment not to exceed one year, or both. If the conviction, is for a violation committed after a first conviction[,] criminal punishment shall be by a fine of not more than \$50,000 for each day of violation, or by imprisonment for not more than two years, or both.

(e) Any person who wilfully or negligently violates part III of this chapter or any rule [or regulation promulgated] adopted by the department pursuant to part III [of this chapter] shall be punished by a fine of not less than \$2,500 nor more than \$25,000, per day of violation or by imprisonment for not more than one year, or both.

(f) Any person who wilfully or negligently violates part of this chapter or any rule adopted by the department pursuant to part shall be

**ACT 237**

punished by a fine of not more than \$5,000 for each violation or imprisonment for not more than one year, or both. If the conviction is for a violation committed after a first conviction, the violator shall be subject to a fine of not more than \$10,000 for each violation, or by imprisonment for not more than two years, or both.

[(f)] (g) Any person who denies, obstructs, or hampers the entrance and inspection by any duly authorized officer or employee of the department of any building [or], place, or vehicle which the officer or employee is authorized to enter and inspect shall be fined not more than \$500. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action."

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$60,000, or so much thereof as may be necessary for fiscal year 1987-1988, for the establishment of three full-time permanent positions in the department of health and the hiring of personnel to fill such positions to carry out the purposes of this Act. The sum appropriated shall be expended by the department of health.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect ninety days after its approval; provided that Section 4 shall take effect on July 1, 1987.

(Approved June 23, 1987.)

**Note**

1. Prior to amendment, "," appeared here.

**ACT 237**

**H.B. NO. 741**

**A Bill for an Act Relating to School Buses.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to provide for the safety of school children by amending section 291C-95, Hawaii Revised Statutes, to require each school bus driver to activate the flashing red lights of the school bus when child passengers embark and disembark.

Existing law requires: (1) school bus drivers to activate the flashing red lights when parked outside of business and residential districts, or when required to do so by county ordinances; and (2) motor vehicle operators in the immediate vicinity to come to a complete stop until the school bus resumes motion or the flashing red lights are deactivated. However, the greatest exposure to danger attributed to traffic occurs precisely in the business and residential districts, where the heaviest traffic exists.

This Act extends the statutory provision by requiring the operators of school buses throughout the State to uniformly activate the flashing red lights whenever child passengers embark and disembark. Moreover, motor vehicle operators in the immediate vicinity of the school bus must simultaneously come to a complete stop to minimize traffic hazards to the child passengers.

SECTION 2. Section 291C-95, Hawaii Revised Statutes, is amended as follows:

(1) Subsection (a) is amended to read:

“(a) Whenever a school bus is stopped on a highway with its visual signals as described in subsection (g) of this section actuated, the driver of any motor vehicle on the same highway in the lane occupied by the school bus and the lane immediately adjacent to the lane occupied by the school bus, regardless of the direction of traffic in that lane, shall stop the driver’s vehicle before reaching the school bus and shall not proceed until the school bus resumes motion or the visual signals are turned off.”

(2) Subsection (c) is amended to read:

“(c) The driver of the school bus shall actuate the visual signals described in subsection (g) only when the school bus is stopped for the purpose of receiving or discharging school children[:

- (1) On a highway outside of a business or residence district; and
- (2) At any other location where the use of such visual signals is required by county ordinance].”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on September 1, 1987.

(Approved June 23, 1987.)

## ACT 238

H.B. NO. 889

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 325-101, Hawaii Revised Statutes, is amended to read as follows:

“**[[[§325-101]] Confidentiality of records and information.** (a) All information and records containing any information which identifies any person who has or may have any condition related to a sexually transmitted disease or who has been tested for any condition related to a sexually transmitted disease which is required to be reported under this chapter or by administrative rule and which are held or maintained by any state agency, health care provider or facility, physician, laboratory, clinic, blood bank, third party payor, or any other agency, individual, or other organization in the State shall be strictly confidential. Such information shall not be released or made public upon subpoena or any other method of discovery except under the following circumstances:

- (1) Release is made of specific medical or epidemiological information to the department of health for statistical purposes in such a way that no person can be identified;
- (2) Release is made of specific medical or epidemiological information with the prior written consent to the specific information to be released of the person or persons identified [in the information released;] therein;
- (3) Release is made of medical or epidemiological information to medical personnel in a medical emergency only to the extent necessary to protect the health, life, or well-being of the named party;
- (4) Release by the department of health is necessary to protect the health and well-being of the general public; provided that release

is made in such a way that no person can be identified[;], except as specified in paragraph (5);

- (5) Release is made by the department of health of medical or epidemiological information to medical personnel, appropriate county and state agencies, blood banks, plasma centers, organ and tissue banks, schools, preschools, day care centers, or county or district courts to enforce the provisions of this part and [related] to enforce rules adopted by the department of health concerning the control and treatment of sexually communicable diseases; provided that release of information under this paragraph shall only be made by confidential communication to a designated individual charged with compliance of the provisions of this part; or
- (6) Release is made for the purpose of enforcing the provisions of chapter 350.

For the purpose of this part, the term "medical emergency" means any disease-related situation which threatens life or limb, and the term "medical personnel" means any health care provider, as provided in section 323D-2, in the State, who deals directly or indirectly with the identified patient or the patient's contacts, and includes hospital emergency room personnel, the staff of the communicable disease division of the department of health, and any other department personnel as designated by the director.

(b) Recording or maintaining information protected under this part in a separate portion of an individual's file which is clearly designated as confidential shall not be construed as a breach per se of that individual's confidentiality.

(c) No person shall be compelled to consent to the release of information protected under this part in order to obtain or maintain housing, employment, or education.

(d) Any person who receives or comes into possession of any record or information released or disclosed pursuant to subsection (a) shall be subject to the same obligation of confidentiality as the party from whom the record or information was received."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 23, 1987.)

**ACT 239**

S.B. NO. 320

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to be appropriately designated and to read as follows:

**"§235- Food tax credit.** (a) Each resident individual taxpayer, who files an individual income tax return for a taxable year, and who is not



claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, may claim a food tax credit of \$45 against the resident taxpayer's individual income tax liability for the taxable year for which the individual income tax return is being filed; provided that a resident individual who has no income or no income taxable under this chapter and who is not claimed or is not otherwise eligible to be claimed as a dependent by a taxpayer for federal or Hawaii state individual income tax purposes may claim this credit. The food tax credit of \$45 shall be multiplied by the number of qualified exemptions to which the taxpayer is entitled.

(b) For the purposes of this section, a qualified exemption is defined to include those exemptions permitted under this chapter; provided that a person for whom exemption is claimed has physically resided in the State for more than nine months during the taxable year; and provided further that multiple exemptions shall not be granted because of age, deficiencies in vision or hearing, or other disability. For purposes of claiming the credit only, a minor child receiving support from the department of social services and housing of the State, social security survivor's benefits, and the like, may be considered a dependent and a qualified exemption of the parent or guardian.

(c) The tax credit under this section shall not be available to (1) any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full taxable year; (2) any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full taxable year; or (3) any misdemeanant who has been committed to jail and has been physically confined for the full taxable year.

(d) The tax credits claimed by a resident taxpayer pursuant to this section shall be deductible from the resident taxpayer's individual income tax liability, if any, for the tax year in which they are properly claimed. If the tax credits claimed by a resident taxpayer exceed the amount of income tax payment due from the resident taxpayer, the excess of credits over payments due shall be refunded to the resident taxpayer; provided that tax credits properly claimed by a resident individual who has no income tax liability shall be paid to the resident individual; and provided further that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than \$1.

(e) All claims for tax credits under this section, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(f) This section shall not be effective after December 31, 1990."

2. By adding a new section to be appropriately designated and to read as follows:

**"§235- Capital goods excise tax credit.** (a) There shall be allowed to each taxpayer subject to the tax imposed by this chapter a capital goods excise tax credit which shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is property<sup>1</sup> claimed.

The amount of the tax credit shall be determined by the application of the following rates against the cost of the eligible depreciable tangible personal property used by the taxpayer in a trade or business and purchased

## ACT 239

and placed in service within Hawaii after December 31, 1987. For calendar years beginning after:

- December 31, 1987, the applicable rate shall be 3 per cent;
- December 31, 1988, and thereafter, the applicable rate shall be 4 per cent.

For taxpayers with fiscal taxable years, the applicable rate shall be the rate for the calendar year in which the eligible tangible personal property used in the trade or business is purchased and placed in service within Hawaii.

In the case of partners, S corporation shareholders, or beneficiaries of estates and trusts who are taxable on the distributive share of net income received, the credit under this section for the taxable year shall be allowable only to the extent of the ratio of the distributive share of income received from the partnership, S corporation, estate or trust to the entire gross income subject to the tax imposed by this chapter.

In the case of eligible tangible personal property for which a credit for sales or use taxes paid to another state is allowable under section 238-3(i), the amount of the credit allowed under this section shall not exceed the amount of the use tax actually paid under chapter 238 relating to such tangible personal property.

If a deduction is taken under section 179 (with respect to election to expense certain depreciable business assets) of the Internal Revenue Code 1954, as amended, no credit shall be allowed for that portion of the cost of property for which the deduction was taken.

(b) If the capital goods excise tax credit allowed under subsection (a) exceeds the taxpayer's net income tax liability, the excess of credit over liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credit allowed by this section shall be made for amounts less than \$1.

All claims for tax credits under this section, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(c) Application for the capital goods excise tax credit shall be upon forms provided by the department of taxation.

(d) Sections 47 (with respect to dispositions of section 38 property and the recapture percentages) of the Internal Revenue Code of 1954, as amended, as of December 31, 1984, and 280F as operative for this chapter (with respect to limitation on investment tax credit and depreciation for luxury automobiles; limitation where certain property used for personal purposes) of the Internal Revenue Code of 1954, as amended, shall be operative for purposes of this section.

(e) As used in this section, the definition of section 38 property (with respect to investment in depreciable tangible personal property) as defined by section 48(a)(1)(A), (a)(1)(B), (a)(3), (a)(4), (a)(7), (a)(8), (a)(10)(A), (b), (c), (f), (l), (m), and (s) of the Internal Revenue Code of 1954, as amended as of December 31, 1984, is operative for the purposes of this section only.

As used in this section:

"Cost" means (1) the actual invoice price of the tangible personal property, or (2) the basis from which depreciation is taken under section 167 (with respect to depreciation) or from which a deduction may be taken under section 168 (with respect to accelerated cost recovery system) of the Internal Revenue Code of 1954, as amended, whichever is less.

"Eligible depreciable tangible personal property" is section 38 property as defined by the operative provisions of section 48 and having a

depreciable life under section 167 or for which a deduction may be taken under section 168 of the federal Internal Revenue Code of 1954, as amended.

“Purchased and placed in service” means the date the property was acquired, or available or ready for use, whichever is earlier. Property purchased and placed in service does not include property which was owned or used at any time during 1987 by the taxpayer or related person, or property acquired in a transaction in which the user of such property does not change.

“Tangible personal property” means tangible personal property which is purchased and placed in service within Hawaii after December 31, 1987, and the purchase or importation of which resulted in a transaction which was subject to the imposition and payment of tax at the rate of four per cent under chapter 237 or 238. “Tangible personal property” does not include tangible personal property which is an integral part of a building or structure or tangible personal property used in a foreign trade zone, as defined under chapter 212.”

3. By adding a new section to be appropriately designated and to read as follows:

**“§235- Certain unearned income of minor children taxed as if parent’s income.** (a) In the case of any child to whom this section applies, the tax imposed by this chapter shall be equal to the greater of:

(1) The tax imposed by section 235-51 without regard to this section, or

(2) The sum of:

(A) The tax which would be imposed by section 235-51 if the taxable income of such child for the taxable year were reduced by the net unearned income of such child, plus

(B) Such child’s share of allocable parental tax.

(b) This section shall apply to any child for any taxable year if:

(1) Such child has not attained age fourteen before the close of the taxable year, and

(2) Either parent of such child is alive at the close of the taxable year.

(c) For the purpose of this section:

(1) The term “allocable parental tax” means the excess of:

(A) The tax which would be imposed by section 235-51 on the parent’s taxable income if such income included the net unearned income of all children of the parent to whom this section applies, over,

(B) The tax imposed by section 235-51 on the parent without regard to this section.

For purposes of subparagraph (A), net unearned income of all children of the parent shall not be taken into account in computing any deduction or credit of the parent.

(2) A child’s share of any allocable parental tax of a parent shall be equal to an amount which bears the same ratio to the total allocable parental tax as the child’s net unearned income bears to the aggregate net unearned income of all children of such parent to whom this section applies.

(d) For purposes of this section:

(1) The term “net unearned income” means the excess of:

(A) The portion of the gross income for the taxable year which is not earned income as defined in the Internal Revenue Code, over,

(B) The sum of:

- (i) The amount in effect for the taxable year under section 63(c)(5)(A) (relating to the limitation on standard deduction in the case of certain dependents) of the Internal Revenue Code as operative under section 235-2.4(a), plus
  - (ii) The greater of the amount described in clause (i) or, if the child itemizes the child's deductions for the taxable year, the amount of the deductions allowed by this chapter for the taxable year which are directly connected with the production of the portion of gross income referred to in subparagraph (A).
- (2) The amount of the net unearned income for any taxable year shall not exceed the individual's taxable income for such taxable year.
- (e) For purposes of this section, the parent whose taxable income shall be taken into account shall be:
- (1) In the case of parents who are not married (within the meaning of section 235-93), the custodial parent of the child, and
  - (2) In the case of married individuals filing separately, the individual with the greater taxable income.
- (f) The parent of any child to whom this section applies for any taxable year shall provide the social security number of such parent to such child and such child shall include such parent's social security number on the child's return of tax imposed by this section for such taxable year."

4. Section 235-1 is amended by adding a new definition to be appropriately inserted and to read as follows:

"Internal Revenue Code of 1954, as amended" includes the Internal Revenue Code of 1986 and the Internal Revenue Code of 1986, as amended."

5. Section 235-2.3 is amended by amending subsections (a) and (b) to read as follows:

"(a) For all taxable years beginning after December 31, [1985,] 1986, as used in this chapter "Internal Revenue Code" means subtitle A, chapter 1 of the federal Internal Revenue Code of 1954 as amended as of December 31, [1985,] 1986, as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income except those provisions of the Internal Revenue Code and federal Public Law which pursuant to this chapter, this section, and sections 235-2.4 and 235-2.5 do not apply or are otherwise limited in application[.]; provided that section 1202 (with respect to deduction for capital gains) of the Internal Revenue Code of 1954 as amended as of December 31, 1986, shall be operative for the purposes of this chapter until March 31, 1987, and shall apply to any capital gains properly taken before April 1, 1987, except that the deduction provided in section 1202(a) shall be 55 per cent of the net capital gain.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine (1) the basis of property, if a taxpayer first determined the basis of property in a taxable year to which such sections apply, and if such determination was made before January 1, 1978, and (2) gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978.

(b) The following Internal Revenue Code subchapters, parts of subchapters, sections, subsections, and parts of subsections shall not be operative for the purposes of this chapter, unless otherwise provided:

- (1) Subchapter A (sections 1 to [58] 59) (with respect to determination of tax liability)[.], except sections 47 and 48, as amended, as of December 31, 1984 (with respect to certain depreciable tangible personal property). For treatment, see section 235-
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).
- (3) Section 86 (with respect to social security and tier 1 railroad retirement benefits).
- (4) Section 103 (with respect to interest on [certain governmental obligations].) state and local bonds. For treatment, see section 235-7(b).
- [(5) Section 103A (with respect to mortgage subsidy bonds).
- (6) (5) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see sections 235-2.4[,] and 235-7(a)(10) to (12)[, and 235-9(a)(2) and (5)].
- [(7)] (6) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3).
- (7) Subchapter B (sections 141 to 150) (with respect to tax exemption requirements for state and local bonds).
- (8) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
- (9) Section 169 (with respect to amortization of pollution control facilities). For treatment, see section 235-11.
- (10) Section 196 (with respect to deduction for certain unused investment credits).
- [(11) Section 221 (with respect to deduction for two-earner married couples).
- (12)] (11) Subchapter B, part VIII (sections 241 to 250) (with respect to special deductions for corporations), except sections 248 (with respect to organizational expenditures) and 249 (with respect to limitation on deduction of bond premium on repurchase). For treatment, see section 235-7(c).
- [(13)] (12) Section 269A (with respect to personal service corporations formed or availed of to avoid or evade income tax).
- [(14)] (13) Section 280C (with respect to certain expenses for which credits are allowable).
- [(15)] (14) Section 280D (with respect to portion of chapter 45 taxes for which credit or refund is allowable under section 6429).
- [(16)] (15) Section 291 (with respect to special rules relating to corporate preference items).
- [(17)] (16) Section 367 (with respect to foreign corporations).
- [(18)] (17) [Subchapter F (sections 501 to 528)] Section 501(c)(12), (15), (16) (with respect to exempt organizations)[, except as provided in section 235-2.4. For treatment, see section 235-9].
- (18) Section 515 (with respect to taxes of foreign countries and possessions of the United States).
- (19) Section 521 (with respect to exemption of farmers cooperatives from tax). For treatment, see section 421-23.
- [(19)] (20) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).

## ACT 239

- [(20)] (21) Subchapter H (sections 581 to [597]) 596 (with respect to banking institutions). For treatment, see chapter 241.
- [(21)] (22) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).
- [(22)] (23) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).
- [(23)] (24) Subchapter L (sections 801 to [845]) 846 (with respect to insurance companies). For treatment, see sections 431-318 and 431-320.
- [(24)] (25) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.
- [(25)] (26) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States), except part IV (sections 991 to 997) (with respect to domestic international sales corporations). For treatment, see sections 235-4, 235-5, and 235-7(b).
- [(26)] (27) Section 1055 (with respect to redeemable ground rents).
- [(27)] (28) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).
- [(28)] (29) Section 1201 (with respect to alternative tax). For treatment, see section 235-71(a).
- [(29)] (30) Subchapter Q (sections [1301] 1311 to 1351) (with respect to readjustment of tax between years and special limitations).
- [(30)] (31) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons). For treatment, see chapter 421.”

6. Section 235-2.4 is amended to read as follows:

“**§235-2.4 Operation of certain Internal Revenue Code provisions.** (a) Section 63 (with respect to taxable income defined) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that the [zero-bracket amount in section 63(d)] standard deduction amount in section 63(c) of the Internal Revenue Code shall instead mean:

- [(1)] \$1,000 in the case of:
  - (A) A joint return as provided by section 235-93, or
  - (B) A surviving spouse (as defined in section 2(a) of the Internal Revenue Code),
- (2) \$800 in the case of an individual who is not married and who is not a surviving spouse (as so defined),
- (3) \$500 in the case of a married individual filing a separate return, or
- (4) Zero in any other case.]
- (1) \$1,700 in the case of:
  - (A) A joint return as provided by section 235-93, or
  - (B) A surviving spouse (as defined in section 2(a) of the Internal Revenue Code),
- (2) \$1,500 in the case of a head of household (as defined in section 2(b) of the Internal Revenue Code),
- (3) \$1,000 in the case of an individual who is not married and who is not a surviving spouse or head of household, or
- (4) \$850 in the case of a married individual filing a separate return.

Section 63(c)(4) shall not be operative in this State. Section 63(c)(5) shall be operative, except that the limitation on standard deduction in the case of certain dependents shall be the greater of \$500 or such individual's earned income. Section 63(f) shall not be operative in this State.

(b) Section 219 (with respect to retirement savings) of the Internal Revenue Code shall be operative for the purpose of this chapter. For the purpose of computing the limitation on the deduction for active participants in certain pension plans for state income tax purposes, adjusted gross income as used in section 219 as operative for this chapter means federal adjusted gross income.

[(b)] (c) In administering the provisions of sections 410 to [415] 417 (with respect to special rules relating to pensions, profit sharing, stock bonus plans, etc.), sections 418 to 418E (with respect to special rules for multiemployer plans), and sections 419 and 419A (with respect to treatment of welfare benefit funds) of the Internal Revenue Code, the department of taxation shall adopt rules under chapter 91 relating to the specific requirements under such sections and to such other administrative requirements under those sections as may be necessary for the efficient administration of sections 410 to 419A.

In administering sections 401 to 419A (with respect to deferred compensation) of the Internal Revenue Code, Public Law 93-406, section 1017(i), shall be operative for the purposes of this chapter.

In administering section 402 (with respect to the taxability of beneficiary of employees' trust) of the Internal Revenue Code, the tax imposed on lump sum distributions by section 402(e) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter.

(d) Section 468B (with respect to special rules for designated settlement funds) shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at a rate equal to the maximum rate in effect for the taxable year imposed on estates and trusts under section 235-51.

(e) Section 469 (with respect to passive activities and credits limited) shall be operative for the purposes of this chapter. For the purpose of computing the offset for rental real estate activities for state income tax purposes, adjusted gross income as used in section 469 as operative for this chapter means federal adjusted gross income.

[(c)] (f) Sections 512 to [515] 514 (with respect to taxation of business income of certain exempt organizations) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this subsection.

The persons and organizations exempted by section 235-9 shall, if subject to tax under the Internal Revenue Code upon their "unrelated business taxable income", be taxed thereon under this chapter. For the purposes of this subsection the term "taxable income" as used in subsection [(d)(2)] (h)(2) of this section and section 235-71 shall be read as "unrelated business taxable income".

"Unrelated business taxable income" means the same as in the Internal Revenue Code, except that in the computation thereof sections 235-3 to 235-5, and 235-7 (except subsection (c)), shall apply, and in the determination of the net operating loss deduction under section 235-7(d) there shall not be taken into account any amount of income or deduction which is excluded in computing the unrelated business taxable income. Unrelated business taxable income shall not include any income from a prepaid legal service plan.

(g) Sections 527 (with respect to political organizations) and 528 (with respect to certain homeowners associations) shall be operative for the purposes of this chapter and the taxes imposed in each such section are hereby imposed by this chapter at the rates determined under section 235-71.

**ACT 239**

[(d)] (h) Section 641 (with respect to imposition of tax) of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The deduction for exemptions shall be allowed as provided in section 235-54(b).
- (2) The deduction for contributions and gifts in determining taxable income shall be limited to the amount allowed in the case of an individual, unless the contributions and gifts are to be used exclusively in the State.
- (3) The tax imposed by section 1(e) of the Internal Revenue Code as applied by section 641 of the Internal Revenue Code is hereby imposed by this chapter at the rate and amount as determined under section 235-51[(e)] on estates and trusts.

[(e)] (i) Section 644 (with respect to special rule for gain on property transferred to trust at less than fair market value) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the determination of the interest rate established under section 6621 of the Internal Revenue Code referred to in section 644(a)(2) of the Internal Revenue Code shall instead be the interest rate established under section 231-39(b)(4).

[(f)] (j) Section 667 (with respect to treatment of amounts deemed distributed by trusts in preceding years) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the reference to tax-exempt interest to which section 103 of the Internal Revenue Code applies in section 667(a) of the Internal Revenue Code shall instead be a reference to tax-exempt interest to which section 235-7(b) applies.

[(g)] (k) Sections 991 to 997 (with respect to domestic international sales corporations) of the Internal Revenue Code shall be operative for the purposes of this chapter; provided that any corporation electing to be a domestic international sales corporation under this chapter shall be incorporated and have its principal place of business in this State.

[(h)] (l) Section 1034 (with respect to rollover of gain on sale of principal residence) of the Internal Revenue Code shall be operative for the purpose of this chapter; provided section 1034(a) (with respect to nonrecognition of gain) of the Internal Revenue Code shall apply only to:

- (1) A taxpayer who purchases a replacement residence which is located within the State, or
- (2) A taxpayer who is a resident of the State, taxable upon the taxpayer's entire income, computed without regard to source within the State.

[(i)] (m) Section 1212 (with respect to capital loss carrybacks and carryforwards) of the Internal Revenue Code shall be operative for the purposes of this chapter; except that for the purposes of this chapter the capital loss carryback provisions of section 1212 shall not be operative and the capital loss carryforward allowed by section 1212(a), shall be limited to five years.

[(j)] (n) Subchapter S (sections 1361 to 1379) (with respect to tax treatment of S corporations and their shareholders) of chapter 1 of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The term S corporation as defined in section 1361 of the Internal Revenue Code means a corporation which does not have[



- (A) A nonresident as a shareholder; or
- (B) A] a resident who is an individual who has taken up residence in the State after attaining the age of sixty-five years and before July 1, 1976, and who is taxed under this chapter only on the basis of income received or derived from property owned, personal services performed, trade or business carried on, and any and every other source in the State;

unless the individual resident [in subparagraph (B)] shall have waived the benefit of section 3, Act 60, Session Laws of Hawaii 1976, as to income includible in the individual's gross income under this chapter and as to such gross income shall have consented to the taxation thereof in the same manner as if the individual had taken up residence in the State after June 30, 1976.

- (2) An election under section 1362 of the Internal Revenue Code shall not be effective for any taxable year of the corporation unless there is also in effect for such taxable year an election for federal income tax purposes under subchapter S of chapter 1 of the Internal Revenue Code.
- (3) The tax imposed by section 1374 of the Internal Revenue Code [is hereby imposed by this chapter at an amount equal to 3.08 per cent on the amount by which the net capital gain of the corporation exceeds \$25,000. For the purposes of section 1374(c)(3) of the Internal Revenue Code the amount of tax to be determined shall not exceed 3.08 per cent on the net capital gain attributable to property acquired as provided in section 1374(c)(3)(B) of the Internal Revenue Code and having a basis described in section 1374(c)(3)(C) of the Internal Revenue Code.] is hereby imposed by this chapter at an amount equal to 6.4 per cent of the recognized built-in gain.
- (4) The tax imposed by section 1375(a) of the Internal Revenue Code is hereby imposed by this chapter at an amount equal to [6.435] 6.4 per cent of the amount of the excess net passive income for the taxable year."

7. Section 235-7 is amended by amending subsection (a) to read as follows:

"(a) There shall be excluded from gross income, adjusted gross income, and taxable income:

- (1) Income not subject to taxation by the State under the Constitution and laws of the United States;
- (2) Rights, benefits, and other income exempted from taxation by section 88-91, having to do with the state retirement system, and the rights, benefits, and other income, comparable to the rights, benefits, and other income exempted by section 88-91, under any other public retirement system;
- (3) Any compensation received in the form of a pension for past services[, or paid as a weekly benefit for unemployment up to but not in excess of the amount provided by the employment security law but the amount of the exclusion shall not exceed the exclusion allowed under section 85 of the Internal Revenue Code made operative for the purposes of this chapter (it being the intention of this provision to exempt that amount whether paid from a fund or account in the federal or state treasury or

- paid by an employer or by a trust or other means provided by an employer)];
- (4) Compensation paid to a patient affected with Hansen's disease employed by the State or the United States in any hospital, settlement, or place for the treatment of Hansen's disease;
  - (5) Except as otherwise expressly provided, payments made by the United States or this State, under an act of Congress or a law of this State, which by express provision or administrative regulation or interpretation are exempt from both the normal and surtaxes of the United States, even though not so exempted by the Internal Revenue Code itself;
  - (6) All proceeds received by organizations enumerated under section 237-23(a)(5) to (8), resulting from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
  - (7) Any income expressly exempted or excluded from the measure of the tax imposed by this chapter by any other law of the State, it being the intent of this chapter not to repeal or supersede any such express exemption or exclusion;
  - (8) The first \$500 received by each member of the reserve components of the army, navy, air force, marine corps, coast guard of the United States of America, and the Hawaii national guard as compensation for performance of duty as such;
  - (9) Income derived from the operation of ships or aircraft if such income is exempt under the Internal Revenue Code pursuant to the provisions of an income tax treaty or agreement entered into by and between the United States and a foreign country, provided that the tax laws of the local governments of that country reciprocally exempt from the application of all of their net income taxes, the income derived from the operation of ships or aircraft which are documented or registered under the laws of the United States;
  - (10) The value of legal services provided by a prepaid legal service plan to a taxpayer, the taxpayer's spouse, and the taxpayer's dependents;
  - (11) Amounts paid, directly or indirectly, by a prepaid legal service plan to a taxpayer as payment or reimbursement for the provision of legal services to the taxpayer, the taxpayer's spouse, and the taxpayer's dependents;
  - (12) Contributions by an employer to a prepaid legal service plan for compensation (through insurance or otherwise) to the employer's employees for the costs of legal services incurred by the employer's employees, their spouses, and their dependents."

8. Section 235-7 is amended by amending subsection (c) to read as follows:

"(c) The deductions of or based on dividends paid or received, allowed to a corporation under chapter 1, subchapter B, Part VIII of the Internal Revenue Code, shall not be allowed. In lieu thereof there shall be allowed as a deduction the entire amount of dividends received by any corporation upon the shares of stock of a national banking association, or received by a small business investment company operating under the Small Business Investment Act of 1958 (Public Law 85-699) upon shares of stock qualifying under paragraph (3) below, [eighty-five] eighty per cent of the amount received by any corporation as dividends:

- (1) Upon the shares of stock of another corporation, if at the date of payment of the dividend at least ninety-five per cent of the other corporation's capital stock is owned by one or more corporations doing business in this State and if the other corporation is subjected to an income tax in another jurisdiction (but subsection to federal tax does not constitute subsection to income tax in another jurisdiction);
- (2) Upon the shares of stock of a bank or insurance company organized and doing business under the laws of the State;
- (3) Upon the shares of stock of another corporation, if at least fifteen per cent of the latter corporation's business, for the taxable year of the latter corporation preceding the payment of the dividend, has been attributed to this State.

However, except for national bank dividends, the deductions under this subsection are not allowed when they would not have been allowed under section 243 of the Internal Revenue Code, as amended by Public Law 85-866, by reason of subsections (b) and (c) of section 246 of the Internal Revenue Code, as [so] amended. For the purposes of this subsection fifteen per cent of a corporation's business shall be deemed to have been attributed to this State if fifteen per cent or more of the entire gross income of the corporation as defined in this chapter (which for the purposes of this subsection shall be computed without regard to source in the State and shall include income not taxable by reason of the fact that it is from property not owned in the State or from a trade or business not carried on in the State in whole or in part) shall, under section 235-5 and the other provisions of this chapter, have been attributed to the State and subjected to assessment of the taxable income therefrom (including the determination of the resulting net loss, if any)."

9. Section 235-8 is repealed.

10. Section 235-9 is amended to read as follows:

**"§235-9 Exemptions; generally.** [(a)] Except as provided in sections 235-61 to 235-67 relating to withholding and collection of tax at source, and section 235-2.4[(e)] relating to "unrelated business taxable income", the following persons and organizations shall not be taxable under this chapter:

- [(1)] Banks, building and loan associations, industrial loan companies, financial corporations, small business investment companies, and development companies taxable under chapter 241; and insurance companies [and], agricultural cooperative associations, and fish marketing associations exclusively taxable under other laws[;
- (2) Corporations, companies, associations, or trusts conducted solely for charitable, religious, educational, prepaid legal services, or scientific purposes within the State, including fraternal beneficiary societies;
- (3) Corporations, companies, associations, or trusts organized for the establishment and conduct of cemeteries, no part of the net earnings of which inures to the financial benefit of any private shareholder or individual;
- (4) Business leagues, chambers of commerce, real estate boards, or boards of trade, not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual;
- (5) Civic leagues or organizations, not organized for profit but operated exclusively for the promotion of social welfare, which shall

include the operation of a prepaid legal service plan, or local associations of employees, the membership of which is limited to the employees of a designated person or persons, and the net earnings of which are devoted exclusively to charitable, educational, prepaid legal service, or recreational purposes within the State;

- (6) Labor organizations;
- (7) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholder;
- (8) A trust forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of the employer's employees or their beneficiaries, and which meets the requirements of the Internal Revenue Code for exemption from the tax thereby imposed.

(b) Notwithstanding that any person is exempted from taxation by the Internal Revenue Code, nevertheless if the person is not exempted from taxation by this chapter, the person or it shall be taxed in accordance with this chapter].”

11. Section 235-51 is amended to read as follows:

“§235-51 Tax imposed on individuals; rates. (a) There is hereby imposed on the taxable income of (1) every taxpayer who files a joint return under section 235-93; and (2) every surviving spouse a tax determined in accordance with the following table:

[If taxable income is:	The tax is:
Not over \$1,000	No Tax
Over \$1,000, but not over \$2,000	2.25% of excess over \$1,000
Over \$2,000, but not over \$3,000	\$22.50 plus 3.25% of excess over \$2,000
Over \$3,000, but not over \$4,000	\$55.00 plus 4.5% of excess over \$3,000
Over \$4,000, but not over \$5,000	\$100.00 plus 5.0% of excess over \$4,000
Over \$5,000, but not over \$7,000	\$150.00 plus 6.5% of excess over \$5,000
Over \$7,000, but not over \$11,000	\$280.00 plus 7.5% of excess over \$7,000
Over \$11,000, but not over \$21,000	\$580.00 plus 8.5% of excess over \$11,000
Over \$21,000, but not over \$29,000	\$1,430.00 plus 9.5% of excess over \$21,000
Over \$29,000, but not over \$41,000	\$2,190.00 plus 10.0% of excess over \$29,000
Over \$41,000, but not over \$61,000	\$3,390.00 plus 10.5% of excess over \$41,000
Over \$61,000	\$5,490.00 plus 11.0% of excess over \$61,000]

In the case of any taxable year beginning after December 31, 1986, and ending before January 1, 1988:

If the taxable income is:

The tax shall be:

<u>Not over \$2,000</u>	<u>2.25% of taxable income</u>
<u>Over \$2,000 but not over \$4,000</u>	<u>\$45.00 plus 4.25% of excess over \$2,000</u>
<u>Over \$4,000 but not over \$6,000</u>	<u>\$130.00 plus 6.25% of excess over \$4,000</u>
<u>Over \$6,000 but not over \$10,000</u>	<u>\$255.00 plus 7.25% of excess over \$6,000</u>
<u>Over \$10,000 but not over \$20,000</u>	<u>\$545.00 plus 8.25% of excess over \$10,000</u>
<u>Over \$20,000 but not over \$28,000</u>	<u>\$1,370.00 plus 9.25% of excess over \$20,000</u>
<u>Over \$28,000 but not over \$40,000</u>	<u>\$2,110.00 plus 9.75% of excess over \$28,000</u>
<u>Over \$40,000</u>	<u>\$3,280.00 plus 10% of excess over \$40,000</u>

In the case of any taxable year beginning after December 31, 1987, and ending before January 1, 1989:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$2,400</u>	<u>2.25% of taxable income</u>
<u>Over \$2,400 but not over \$4,400</u>	<u>\$54.00 plus 4.25% of excess over \$2,400</u>
<u>Over \$4,400 but not over \$6,400</u>	<u>\$139.00 plus 6.25% of excess over \$4,400</u>
<u>Over \$6,400 but not over \$10,400</u>	<u>\$264.00 plus 7.25% of excess over \$6,400</u>
<u>Over \$10,400 but not over \$20,400</u>	<u>\$554.00 plus 8.25% of excess over \$10,400</u>
<u>Over \$20,400 but not over \$28,400</u>	<u>\$1,379.00 plus 9.25% of excess over \$20,400</u>
<u>Over \$28,400 but not over \$40,400</u>	<u>\$2,119.00 plus 9.75% of excess over \$28,400</u>
<u>Over \$40,400</u>	<u>\$3,289.00 plus 10% of excess over \$40,400</u>

In the case of any taxable year beginning after December 31, 1988:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$3,000</u>	<u>2.25% of taxable income</u>
<u>Over \$3,000 but not over \$5,000</u>	<u>\$67.50 plus 4.25% of excess over \$3,000</u>
<u>Over \$5,000 but not over \$7,000</u>	<u>\$152.50 plus 6.25% of excess over \$5,000</u>
<u>Over \$7,000 but not over \$11,000</u>	<u>\$277.50 plus 7.25% of excess over \$7,000</u>
<u>Over \$11,000 but not over \$21,000</u>	<u>\$567.50 plus 8.25% of excess over \$11,000</u>
<u>Over \$21,000 but not over \$29,000</u>	<u>\$1,392.50 plus 9.25% of excess over \$21,000</u>
<u>Over \$29,000 but not over \$41,000</u>	<u>\$2,132.50 plus 9.75% of excess over \$29,000</u>
<u>Over \$41,000</u>	<u>\$3,302.50 plus 10% of excess over \$41,000</u>

**ACT 239**

(b) There is hereby imposed on the taxable income of every head of a household a tax determined in accordance with the following table:

<u>If taxable income is:</u>	<u>The tax is:</u>
Not over \$800	No Tax
Over \$800, but not over \$1,300	2.25% of excess over \$800
Over \$1,300, but not over \$1,800	\$11.25 plus 2.75% of excess over \$1,300
Over \$1,800, but not over \$2,300	\$25.00 plus 3.9% of excess over \$1,800
Over \$2,300, but not over \$2,800	\$44.50 plus 4.1% of excess over \$2,300
Over \$2,800, but not over \$3,800	\$65.00 plus 5.5% of excess over \$2,800
Over \$3,800, but not over \$5,800	\$120.00 plus 6.6% of excess over \$3,800
Over \$5,800, but not over \$10,800	\$252.00 plus 7.9% of excess over \$5,800
Over \$10,800, but not over \$20,800	\$647.00 plus 9.15% of excess over \$10,800
Over \$20,800, but not over \$30,800	\$1,562.00 plus 10.05% of excess over \$20,800
Over \$30,800, but not over \$40,800	\$2,567.00 plus 10.5% of excess over \$30,800
Over \$40,800, but not over \$60,800	\$3,617.00 plus 10.75% of excess over \$40,800
Over \$60,800	\$5,767.00 plus 11.0% of excess over \$60,800]

In the case of any taxable year beginning after December 31, 1986,  
and ending before January 1, 1988:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$1,000</u>	<u>2.25% of taxable income</u>
<u>Over \$1,000 but not over \$2,000</u>	<u>\$22.50 plus 3.25% of excess over \$1,000</u>
<u>Over \$2,000 but not over \$3,000</u>	<u>\$55.00 plus 5.25% of excess over \$2,000</u>
<u>Over \$3,000 but not over \$5,000</u>	<u>\$107.50 plus 6.25% of excess over \$3,000</u>
<u>Over \$5,000 but not over \$10,000</u>	<u>\$232.50 plus 7.25% of excess over \$5,000</u>
<u>Over \$10,000 but not over \$20,000</u>	<u>\$595.00 plus 8.9% of excess over \$10,000</u>
<u>Over \$20,000 but not over \$40,000</u>	<u>\$1,485.00 plus 9.8% of excess over \$20,000</u>
<u>Over \$40,000</u>	<u>\$3,445.00 plus 10% of excess over \$40,000</u>

In the case of any taxable year beginning after December 31, 1987,  
and ending before January 1, 1989:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$1,200</u>	<u>2.25% of taxable income</u>

<u>Over \$1,200 but not over \$2,200</u>	<u>\$27.00 plus 3.25% of excess over \$1,200</u>
<u>Over \$2,200 but not over \$3,200</u>	<u>\$59.50 plus 5.25% of excess over \$2,200</u>
<u>Over \$3,200 but not over \$5,200</u>	<u>\$112.00 plus 6.25% of excess over \$3,200</u>
<u>Over \$5,200 but not over \$10,400</u>	<u>\$237.00 plus 7.25% of excess over \$5,200</u>
<u>Over \$10,400 but not over \$20,400</u>	<u>\$614.00 plus 8.9% of excess over \$10,400</u>
<u>Over \$20,400 but not over \$40,400</u>	<u>\$1,504.00 plus 9.8% of excess over \$20,400</u>
<u>Over \$40,400</u>	<u>\$3,464.00 plus 10% of excess over \$40,400</u>

In the case of any taxable year beginning after December 31, 1988:

If the taxable income is:

<u>Not over \$1,500</u>
<u>Over \$1,500 but not over \$2,500</u>
<u>Over \$2,500 but not over \$3,500</u>
<u>Over \$3,500 but not over \$5,500</u>
<u>Over \$5,500 but not over \$11,000</u>
<u>Over \$11,000 but not over \$21,000</u>
<u>Over \$21,000 but not over \$41,000</u>
<u>Over \$41,000</u>

The tax shall be:

<u>2.25% of taxable income</u>
<u>\$33.75 plus 3.25% of excess over \$1,500</u>
<u>\$66.25 plus 5.25% of excess over \$2,500</u>
<u>\$118.75 plus 6.25% of excess over \$3,500</u>
<u>\$243.75 plus 7.25% of excess over \$5,500</u>
<u>\$642.50 plus 8.9% of excess over \$11,000</u>
<u>\$1,532.50 plus 9.8% of excess over \$21,000</u>
<u>\$3,492.50 plus 10% of excess over \$41,000</u>

(c) There is hereby imposed on the taxable income of (1) every unmarried individual (other than a surviving spouse, or the head of a household) and (2) on the taxable income of every married individual who does not make a single return jointly with the individual's spouse under section 235-93 a tax determined in accordance with the following table:

[If taxable income is:

<u>Not over \$800</u>
<u>Over \$800, but not over \$1,300</u>
<u>Over \$1,300, but not over \$1,800</u>
<u>Over \$1,800, but not over \$2,300</u>
<u>Over \$2,300, but not over \$2,800</u>
<u>Over \$2,800, but not over \$3,800</u>
<u>Over \$3,800, but not over \$5,800</u>
<u>Over \$5,800, but</u>

The tax is:

<u>No Tax</u>
<u>2.25% of excess over \$800</u>
<u>\$11.25 plus 3.25% of excess over \$1,300</u>
<u>\$27.50 plus 4.5% of excess over \$1,800</u>
<u>\$50.00 plus 5.0% of excess over \$2,300</u>
<u>\$75.00 plus 6.5% of excess over \$2,800</u>
<u>\$140.00 plus 7.5% of excess over \$3,800</u>
<u>\$290.00 plus 8.5% of</u>

**ACT 239**

not over \$10,800  
Over \$10,800, but  
not over \$14,800  
Over \$14,800, but  
not over \$20,800  
Over \$20,800, but  
not over \$30,800  
Over \$30,800

excess over \$5,800  
\$715.00 plus 9.5% of  
excess over \$10,800  
\$1,095.00 plus 10.0% of  
excess over \$14,800  
\$1,695.00 plus 10.5% of  
excess over \$20,800  
\$2,745.00 plus 11.0% of  
excess over \$30,800]

In the case of any taxable year beginning after December 31, 1986,  
and ending before January 1, 1988:

If the taxable income is:

Not over \$1,000  
Over \$1,000 but  
not over \$2,000  
Over \$2,000 but  
not over \$3,000  
Over \$3,000 but  
not over \$5,000  
Over \$5,000 but  
not over \$10,000  
Over \$10,000 but  
not over \$14,000  
Over \$14,000 but  
not over \$20,000  
Over \$20,000

The tax shall be:

2.25% of taxable income  
\$22.50 plus 4.25% of  
excess over \$1,000  
\$65.00 plus 6.25% of  
excess over \$2,000  
\$127.50 plus 7.25% of  
excess over \$3,000  
\$272.50 plus 8.25% of  
excess over \$5,000  
\$685.00 plus 9.25% of  
excess over \$10,000  
\$1,055.00 plus 9.75% of  
excess over \$14,000  
\$1,640.00 plus 10% of  
excess over \$20,000

In the case of any taxable year beginning after December 31, 1987,  
and ending before January 1, 1989:

If the taxable income is:

Not over \$1,200  
Over \$1,200 but  
not over \$2,200  
Over \$2,200 but  
not over \$3,200  
Over \$3,200 but  
not over \$5,200  
Over \$5,200 but  
not over \$10,200  
Over \$10,200 but  
not over \$14,200  
Over \$14,200 but  
not over \$20,200  
Over \$20,200

The tax shall be:

2.25% of taxable income  
\$27.00 plus 4.25% of  
excess over \$1,200  
\$69.50 plus 6.25% of  
excess over \$2,200  
\$132.00 plus 7.25% of  
excess over \$3,200  
\$277.00 plus 8.25% of  
excess over \$5,200  
\$689.50 plus 9.25% of  
excess over \$10,200  
\$1,059.50 plus 9.75% of  
excess over \$14,200  
\$1,644.50 plus 10% of  
excess over \$20,200

In the case of any taxable year beginning after December 31, 1988:

If the taxable income is:

Not over \$1,500  
Over \$1,500 but

The tax shall be:

2.25% of taxable income  
\$33.75 plus 4.25% of



<u>not over \$2,500</u>	<u>excess over \$1,500</u>
<u>Over \$2,500 but</u>	<u>\$76.25 plus 6.25% of</u>
<u>not over \$3,500</u>	<u>excess over \$2,500</u>
<u>Over \$3,500 but</u>	<u>\$138.75 plus 7.25% of</u>
<u>not over \$5,500</u>	<u>excess over \$3,500</u>
<u>Over \$5,500 but</u>	<u>\$283.75 plus 8.25% of</u>
<u>not over \$10,500</u>	<u>excess over \$5,500</u>
<u>Over \$10,500 but</u>	<u>\$696.25 plus 9.25% of</u>
<u>not over \$14,500</u>	<u>excess over \$10,500</u>
<u>Over \$14,500 but</u>	<u>\$1,066.25 plus 9.75% of</u>
<u>not over \$20,500</u>	<u>excess over \$14,500</u>
<u>Over \$20,500</u>	<u>\$1,651.25 plus 10% of</u>
	<u>excess over \$20,500</u>

(d) There is hereby imposed on the taxable income of every married individual who does not make a single return jointly with the individual's spouse under section 235-93 a tax determined in accordance with the following table:

<b>If taxable income is:</b>	<b>The tax is:</b>
Not over \$500	No Tax
Over \$500, but not over \$1,000	2.25% of excess over \$500
Over \$1,000, but not over \$1,500	\$11.25 plus 3.25% of excess over \$1,000
Over \$1,500, but not over \$2,000	\$27.50 plus 4.5% of excess over \$1,500
Over \$2,000, but not over \$2,500	\$50.00 plus 5.0% of excess over \$2,000
Over \$2,500, but not over \$3,500	\$75.00 plus 6.5% of excess over \$2,500
Over \$3,500, but not over \$5,500	\$140.00 plus 7.5% of excess over \$3,500
Over \$5,500, but not over \$10,500	\$290.00 plus 8.5% of excess over \$5,500
Over \$10,500, but not over \$14,500	\$715.00 plus 9.5% of excess over \$10,500
Over \$14,500, but not over \$20,500	\$1,095.00 plus 10.0% of excess over \$14,500
Over \$20,500, but not over \$30,500	\$1,695.00 plus 10.5% of excess over \$20,500
Over \$30,500	\$2,745.00 plus 11.0% of excess over \$30,500

(e) (d) The tax imposed by section 235-2.4[(f)] on estates and trusts shall be determined in accordance with the following table:

<b>[If taxable income is:</b>	<b>The tax is:</b>
Not over \$500	2.25% of taxable income
Over \$500, but not over \$1,000	\$11.25 plus 3.25% of excess over \$500
Over \$1,000, but not over \$1,500	\$27.50 plus 4.5% of excess over \$1,000
Over \$1,500, but not over \$2,000	\$50.00 plus 5% of excess over \$1,500

**ACT 239**

Over \$2,000, but not over \$3,000	\$75.00 plus 6.5% of excess over \$2,000
Over \$3,000, but not over \$5,000	\$140.00 plus 7.5% of excess over \$3,000
Over \$5,000, but not over \$10,000	290.00 plus 8.5% of excess over \$5,000
Over \$10,000, but not over \$14,000	715.00 plus 9.5% of excess over \$10,000
Over \$14,000, but not over \$20,000	\$1,095.00 plus 10% of excess over \$14,000
Over \$20,000, but not over \$30,000	\$1,695.00 plus 10.5% of excess over \$20,000
Over \$30,000	\$2,745.00 plus 11% of excess over \$30,000]

In the case of any taxable year beginning after December 31, 1986,  
and ending before January 1, 1988:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$1,000</u>	<u>2.25% of taxable income</u>
<u>Over \$1,000 but not over \$2,000</u>	<u>\$22.50 plus 4.25% of excess over \$1,000</u>
<u>Over \$2,000 but not over \$3,000</u>	<u>\$65.00 plus 6.25% of excess over \$2,000</u>
<u>Over \$3,000 but not over \$5,000</u>	<u>\$127.50 plus 7.25% of excess over \$3,000</u>
<u>Over \$5,000 but not over \$10,000</u>	<u>\$272.50 plus 8.25% of excess over \$5,000</u>
<u>Over \$10,000 but not over \$14,000</u>	<u>\$685.00 plus 9.25% of excess over \$10,000</u>
<u>Over \$14,000 but not over \$20,000</u>	<u>\$1,055.00 plus 9.75% of excess over \$14,000</u>
<u>Over \$20,000</u>	<u>\$1,640.00 plus 10% of excess over \$20,000</u>

In the case of any taxable year beginning after December 31, 1987,  
and ending before January 1, 1989:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$1,200</u>	<u>2.25% of taxable income</u>
<u>Over \$1,200 but not over \$2,200</u>	<u>\$27.00 plus 4.25% of excess over \$1,200</u>
<u>Over \$2,200 but not over \$3,200</u>	<u>\$69.50 plus 6.25% of excess over \$2,200</u>
<u>Over \$3,200 but not over \$5,200</u>	<u>\$132.00 plus 7.25% of excess over \$3,200</u>
<u>Over \$5,200 but not over \$10,200</u>	<u>\$277.00 plus 8.25% of excess over \$5,200</u>
<u>Over \$10,200 but not over \$14,200</u>	<u>\$689.50 plus 9.25% of excess over \$10,200</u>
<u>Over \$14,200 but not over \$20,200</u>	<u>\$1,059.50 plus 9.75% of excess over \$14,200</u>
<u>Over \$20,200</u>	<u>\$1,644.50 plus 10% of excess over \$20,200</u>

In the case of any taxable year beginning after December 31, 1988:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$1,500</u>	<u>2.25% of taxable income</u>
<u>Over \$1,500 but not over \$2,500</u>	<u>\$33.75 plus 4.25% of excess over \$1,500</u>
<u>Over \$2,500 but not over \$3,500</u>	<u>\$76.25 plus 6.25% of excess over \$2,500</u>
<u>Over \$3,500 but not over \$5,500</u>	<u>\$138.75 plus 7.25% of excess over \$3,500</u>
<u>Over \$5,500 but not over \$10,500</u>	<u>\$283.75 plus 8.25% of excess over \$5,500</u>
<u>Over \$10,500 but not over \$14,500</u>	<u>\$696.25 plus 9.25% of excess over \$10,500</u>
<u>Over \$14,500 but not over \$20,500</u>	<u>\$1,066.25 plus 9.75% of excess over \$14,500</u>
<u>Over \$20,500</u>	<u>\$1,651.25 plus 10% of excess over \$20,500</u>

[(f)] (e) Any taxpayer, other than a corporation, acting as a business entity in more than one state who is required by this chapter to file a return may elect to report and pay a tax of .5 per cent of its annual gross sales (1) where the taxpayer's only activities in this State consist of sales; and (2) who does not own or rent real estate or tangible personal property; and (3) whose annual gross sales in or into this State during the tax year is not in excess of \$100,000.

(f) If a taxpayer has a net capital gain for any taxable year to which this subsection applies, then the tax imposed by this section shall not exceed the sum of:

- (1) The tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of:
  - (A) The taxable income reduced by the amount of net capital gain, or
  - (B) The amount of taxable income taxed at a rate below 7.25 per cent, plus
- (2) A tax of 7.25 per cent of the amount of taxable income in excess of the amount determined under paragraph (1)(A).

This subsection shall apply to individuals, estates, and trusts for taxable years beginning after December 31, 1986.

(g) This section shall not be effective after December 31, 1990."

12. Section 235-52 is amended to read as follows:

**"§235-52 Tax in case of joint return or return of surviving spouse.** In the case of a joint return of a husband and wife under section 235-93, the tax imposed, as near as may be, by this chapter shall be twice the tax which would be imposed if the taxable income were cut in half [subject to the inclusion of zero-bracket amounts]. For purposes of this section and section 235-53, a return of a surviving spouse, as defined in the Internal Revenue Code, shall be treated as a joint return of a husband and wife under section 235-93."

13. Section 235-53 is amended by amending subsection (a) to read as follows:

"(a) Imposition of tax table tax:

- (1) In general. In lieu of the tax imposed by section 235-51, there is hereby imposed for each taxable year on the [tax table income of every individual whose tax table income for such year does not exceed the ceiling amount,] taxable income of every individual:
- (A) Who does not itemize the individual's deductions for the taxable year; and
  - (B) Whose taxable income for such taxable year does not exceed the ceiling amount,
- a tax determined under tables, applicable to such taxable year, which shall be prescribed by the director. In the tables so prescribed, the amounts of tax shall be computed on the basis of the rates prescribed by section 235-51.
- (2) Ceiling amount defined. For purposes of paragraph (1), the term "ceiling amount" means, with respect to any taxpayer, the amount (not less than \$20,000) determined by the director for the tax rate category in which such taxpayer falls.
- (3) Certain taxpayers with large number of exemptions. The director may exclude from the application of this section taxpayers in any tax rate category having more than the number of exemptions for that category determined by the director.
- (4) Tax table income defined. For purposes of this section, the term "tax table income" means adjusted gross income:
- (A) Reduced by the excess itemized deductions, and
  - (B) Increased (in the case of a married individual filing a separate return where either spouse itemizes deductions) by the unused zero-bracket amount.]
- (3) Authority to prescribe tables for taxpayers who itemize deductions. The director may provide that this section shall apply also for any taxable year to individuals who itemize their deductions. Any tables prescribed under the preceding sentence shall be on the basis of taxable income."

14. Section 235-53 is amended by amending subsection (d) to read as follows:

"(d) Taxable income. Whenever it is necessary to determine the taxable income of an individual to whom this section applies, the taxable income shall be determined under section [63 (with respect to taxable income defined) of the Internal Revenue Code as made operative in this chapter.] 235-2.4(a)."

15. Section 235-54 is amended by amending subsection (a) to read as follows:

"(a) In computing the taxable income of any individual, there shall be deducted, in lieu of the personal exemptions allowed by the Internal Revenue Code, personal exemptions computed as follows: Ascertain the number of exemptions which the individual can lawfully claim under the Internal Revenue Code, add an additional exemption for the taxpayer or the taxpayer's spouse who is sixty-five years of age or older within the taxable year, and multiply that number by [the amount as shown below for the corresponding taxable years as follows:

- (1) Effective with respect to taxable years beginning after December 31, 1979, the amount shall be \$1,000.
- (2) Effective with respect to taxable years beginning after December 31, 1984, the amount shall be \$1,040.] \$1,040, for taxable years beginning after December 31, 1984.

A nonresident shall be entitled to the same personal exemptions as a resident, without proration of the personal exemptions on account of income from sources outside the State. In the case of an individual with respect to whom an exemption under this section is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the personal exemption amount applicable to such individual under this subsection for such individual's taxable year shall be zero."

16. Section 235-55.6 is amended by amending subsection (e) to read as follows:

"(e) Special rules. For purposes of this section:

- (1) Maintaining household. An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual (or, if such individual is married during such period, is furnished by such individual and the individual's spouse).
- (2) Married couples must file joint return. If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.
- (3) Marital status. An individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance shall not be considered as married.
- (4) Certain married individuals living apart. If:
  - (A) An individual who is married and who files a separate return:
    - (i) Maintains as the individual's home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and
    - (ii) Furnishes over half of the cost of maintaining such household during the taxable year, and
  - (B) During the last six months of such taxable year such individual's spouse is not a member of such household, such individual shall not be considered as married.
- (5) Special dependency test in case of divorced parents, etc. If:
  - (A) Paragraph (2) or (4) of section 152(e) of the Internal Revenue Code of 1954, as amended, applies to any child with respect to any calendar year; and
  - (B) Such child is under age fifteen or is physically or mentally incompetent of caring for the child's self; in the case of any taxable year beginning in such calendar year, such child shall be treated as a qualifying individual described in subsection (b)(1)(A) or (B) (whichever is appropriate) with respect to the custodial parent (within the meaning of section 152(e)(1) of the Internal Revenue Code of 1954, as amended), and shall not be treated as a qualifying individual with respect to the noncustodial parent.
- (6) Payments to related individuals. No credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual:
  - (A) With respect to whom, for the taxable year, a deduction under section [151(e)] 151(c) of the Internal Revenue

Code of 1954, as amended (relating to deduction for personal exemptions for dependents) is allowable either to the taxpayer or the taxpayer's spouse, or

- (B) Who is a child of the taxpayer (within the meaning of section [151(e)(3)] 151(c)(3) of the Internal Revenue Code of 1954, as amended) who has not attained the age of nineteen at the close of the taxable year.

For purposes of this paragraph, the term "taxable year" means the taxable year of the taxpayer in which the service is performed.

- (7) Student. The term "student" means an individual who during each of five calendar months during the taxable year is a full-time student at an educational organization.
- (8) Educational organization. The term "educational organization" means a school operated by the department of education or licensed under chapter 298, or a university, college, or community college."

17. Section 235-61 is amended by amending subsection (c) to read as follows:

"(c) For each withholding period (whether weekly, biweekly, monthly, or otherwise) the amount of tax to be withheld under this section shall be at a rate which, for the taxable year, will yield the tax imposed by section 235-51 upon each employee's annual wage, as estimated from the employee's current wage in any withholding period, but (for the purposes of this subsection) of the rates provided by section 235-51 the maximum to be taken into consideration shall be eight per cent. The tax for the taxable year shall be calculated upon the following assumptions:

- (1) That the employee's annual wage, as estimated from the employee's current wage in the withholding period, will be the employee's sole income for the taxable year;
- (2) That there will be no deductions therefrom in determining adjusted gross income;
- (3) That in determining taxable income there [will be deductions in the amount of \$1,000 (\$800 in the case of an individual who is not married and who is not a surviving spouse);] shall be a standard deduction allowance which shall be an amount equal to one exemption (or more than one exemption if so prescribed by the director) unless (A) the taxpayer is married and the taxpayer's spouse is an employee receiving wages subject to withholding, or (B) the taxpayer has withholding exemption certificates in effect with respect to more than one employer. For the purposes of this section, any standard deduction allowance under this paragraph shall be treated as if it were denominated a withholding exemption.
- (4) That in determining taxable income there also will be deducted the amount of exemptions and withholding allowances granted to the employee in the computation of taxable income, as shown by a certificate to be filed with the employer as provided by subsection (f); and
- (5) If it appears from the certificate filed pursuant to subsection (f) that the employee is, under section 235-93, entitled to make a joint return, that the employee and the employee's spouse will so elect."

18. Section 235-61 is amended by amending subsection (g) to read as follows:

“(g) In determining the deduction allowed by subsection (c)(4) an employee shall be entitled to withholding allowances or additional reductions in withholding under this subsection [with respect to a payment of wages equal to the number determined by dividing by \$1,000 the excess of the employee’s estimated itemized deductions over an amount equal to \$1,000 (\$800 in the case of an individual who is not married and who is not a surviving spouse)]. In determining the number of additional withholding allowances or the amount of additional reductions in withholding under this subsection, the employee may take into account (to the extent and in the manner provided by rules) estimated itemized deductions and tax credits allowable under this chapter; and such additional deductions and other items as may be specified by the director in rules. For the purposes of this subsection a fractional number shall not be taken into account unless it amounts to one-half or more, in which case it shall be increased to the next whole number.

(1) As used in this subsection, unless the context otherwise requires:

(A) “Estimated itemized deductions” means the aggregate amount which the employee reasonably expects will be allowed as deductions under sections 235-2.3, 235-2.4, and 235-7, other than the deductions referred to in Internal Revenue Code section 151 and those deductions required to be taken into account in determining adjusted gross income under Internal Revenue Code section 62(a) (with the exception of paragraph [13] 10 thereof) for the estimation year. In no case shall such aggregate amount be greater than the sum of:

(i) The amount of such deductions [(or the zero bracket amount (within the meaning of section 235-2.4(a)))] reflected in the employee’s net income tax return for the taxable year preceding the estimation year of (if such a return has not been filed for such preceding taxable year at the time the withholding exemption certificate is furnished the employer) the second taxable year preceding the estimation year, [and] or

(ii) The amount of estimated itemized deductions and tax credits allowable under this chapter and such additional deductions to which entitled, and

(iii) The amount of the employee’s determinable additional deductions for the estimation year.

(B) “Estimated wages” means the aggregate amount which the employee reasonably expects will constitute wages for the estimation year.

(C) “Determinable additional deductions” means those estimated itemized deductions which:

(i) Are in excess of the deductions referred to in subparagraph (A) [(or the zero bracket amount)] reflected on the employee’s net income tax return for the taxable year preceding the estimation year; and

(ii) Are demonstrably attributable to an identifiable event during the estimation year or the preceding taxable year which can reasonably be expected to

- cause an increase in the amount of such deductions on the net income tax return for the estimation year.
- (D) "Estimation year", in the case of an employee who files the employee's return on the basis of a calendar year, means the calendar year in which the wages are paid; provided that in the case of an employee who files the employee's return on a basis other than the calendar year, the employee's estimation year, and the amounts deducted and withheld to be governed by such estimation year, shall be determined under rules prescribed by the director of taxation.
- (2) Under this subsection, the following special rules shall apply:
- (A) Married individuals. The number of withholding allowances to which a husband and wife are entitled under this subsection shall be determined on the basis of their combined wages and deductions. This subparagraph shall not apply to a husband and wife who filed separate returns for the taxable year preceding the estimation year and who reasonably expect to file separate returns for the estimation year.
- (B) Limitation. In the case of employees whose estimated wages are at levels at which the amounts deducted and withheld under this chapter generally are insufficient (taking into account a reasonable allowance for deductions and exceptions) to offset the liability for tax under this chapter with respect to the wages from which such amounts are deducted and withheld, the director may by rule reduce the withholding allowances to which such employees would, but for this subparagraph, be entitled under this subsection.
- (C) Treatment of allowances. For purposes of this chapter, any withholding allowance under this subsection shall be treated as if it were denominated a withholding exemption.
- (3) The director may prescribe tables by rule under chapter 91 pursuant to which employees shall determine the number of withholding allowances to which they are entitled under this subsection."

19. Section 235-71 is amended to read as follows:

**"§235-71 Tax on corporations; rates; credit of shareholder of regulated investment company.** (a) A tax at the rates herein provided shall be assessed, levied, collected, and paid for each taxable year on the taxable income of every corporation, including a corporation carrying on business in partnership, except that in the case of a regulated investment company the tax is as provided by subsection (b) and further that in the case of a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1954 the tax is as provided in subsection (d). "Corporation" includes any professional corporation incorporated pursuant to chapter [416.] 415A.

The tax [shall be at the rate of 3.08 per cent on such amount of capital gain as, under the Internal Revenue Code, is entitled to the alternative tax treatment, and] on all [other] taxable income [the tax] other than income from capital gains shall be at the rate of [5.85] 4.4 per cent if the taxable income is not over \$25,000, [and on all over \$25,000, 6.435 per cent.] 5.4 per cent if over \$25,000 but not over \$100,000, and on all over \$100,000, 6.4 per cent; provided that the tax imposed on capital gain entitled to the alternate



tax treatment under the Internal Revenue Code shall be imposed at the rate of 3.08 per cent on the amount of capital gain received before April 1, 1987, and 4 per cent of the amount of capital gain received after March 31, 1987.

(b) In the case of a regulated investment company there is imposed on the taxable income, computed as provided in sections 852 and 855 of the Internal Revenue Code but with the changes and adjustments made by this chapter (without prejudice to the generality of the foregoing, the deduction for dividends paid is limited to such amount of dividends as is attributable to income taxable under this chapter), a tax consisting in the sum of the following: [5.85] 4.4 per cent if the taxable income is not over \$25,000, [and on all over \$25,000, 6.435 per cent; 3.08 per cent on the amount of capital gain which is taxed under section 852(b)(3)(A) of the Internal Revenue Code.] 5.4 per cent if over \$25,000 but not over \$100,000, and on all over \$100,000, 6.4 per cent; provided that the tax imposed on the amount of capital gain which is taxed under section 852(b)(3)(A) of the Internal Revenue Code shall be 3.08 per cent of the amount received before April 1, 1987, and 4 per cent of the amount received after March 31, 1987.

(c) In the case of a shareholder of a regulated investment company there is hereby allowed a credit in the amount of [3.08 per cent of] the tax imposed on the amount of capital gains which by section 852(b)(3)(D) of the Internal Revenue Code is required to be included in the shareholder's return and on which there has been paid to the State by the regulated investment company the tax [of 3.08 per cent] at the rate imposed by subsection (b); the amount of this credit may be applied or refunded as provided in section 235-110.

(d) In the case of a real estate investment trust there is imposed on the taxable income, computed as provided in sections 857 and 858 of the Internal Revenue Code but with the changes and adjustments made by this chapter (without prejudice to the generality of the foregoing, the deduction for dividends paid is limited to such amount of dividends as is attributable to income taxable under this chapter), a tax consisting in the sum of the following: [5.85] 4.4 per cent if the taxable income is not over \$25,000, [and on all over \$25,000, 6.435 per cent; 3.08 per cent on the amount of capital gain which is taxed under section 857(b)(3)(A) of the Internal Revenue Code.] 5.4 per cent if over \$25,000 but not over \$100,000, and on all over \$100,000, 6.4 per cent; provided that the tax imposed on the amount of capital gain which is taxed under section 857(b)(3)(A) of the Internal Revenue Code shall be 3.08 per cent of the amount received before April 1, 1987, and 4 per cent of the amount received after March 31, 1987. In addition to any other penalty provided by law any real estate investment trust whose tax liability for any taxable year is deemed to be increased pursuant to section 859(b)(2)(A) or 860(c)(1)(A) after December 31, 1978 (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) of the Internal Revenue Code shall pay a penalty in an amount equal to the amount of interest for which such trust is liable that is attributable solely to such increase. The penalty payable under this subsection with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 859(a), or 860(a) after December 31, 1978, of the Internal Revenue Code for such taxable year.

(e) Any corporation acting as a business entity in more than one state and which is required by this chapter to file a return and whose only activities in this State consist of sales and which does not own or rent real estate or tangible personal property and whose annual gross sales in or into this State during the tax year are not in excess of \$100,000 may elect to report and pay a tax of .5 per cent of such annual gross sales."

SECTION 2. The effective dates and transitional provisions of Public Law 99-514, the Tax Reform Act of 1986, which relate to sections of the federal Internal Revenue Code of 1986 which are operative for the purposes of chapter 235, Hawaii Revised Statutes, are adopted and made part of this Act; except that such adoption shall not result in the inclusion of income for purposes of taxation under chapter 235, Hawaii Revised Statutes, before January 1, 1987.

SECTION 3. This Part, upon its approval, shall apply with respect to taxable years beginning after December 31, 1986, except as otherwise provided in this Part; provided that section 1(2) of this Part shall apply with respect to taxable years beginning after December 31, 1987. If a taxpayer's taxable year includes the effective date of the tax rate changes (unless that date is the first day of the taxable year), then, (1) the tentative taxes shall be computed by applying the rate for the period before the effective date change, and the rate for the period on and after such date, to the taxable income for the entire taxable year; and (2) the tax for such taxable year shall be the sum of that proportion of each tentative tax which the number of days in each period bears to the number of days in the entire taxable year.

## PART II

SECTION 4. Chapter 237, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§237- Exemption for sales of tangible personal property shipped out of the State.** (a) There shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the value or gross proceeds arising from the manufacture, production, or sale of tangible personal property:

- (1) Shipped by the manufacturer, producer, or seller to a point outside the State where the property is resold or otherwise consumed or used outside the State in the purchaser's or the taxpayer's business; or
- (2) The sale of which is exempt under section 237-24(19).

(b) For the purposes of this section, the manufacturer, producer, or seller shall take from the purchaser, a certificate, in such form as the department shall prescribe, certifying that the tangible personal property purchased is to be resold or otherwise consumed or used outside the State in the purchaser's business. Any purchaser who shall furnish such a certificate shall be obligated to pay to the seller, upon demand, if the property purchased is not resold or otherwise consumed or used outside the State in the purchaser's business, the amount of the additional tax which by reason thereof is imposed upon the seller.

(c) This section shall not affect the application of section 237-13(2)(A).

**§237- Exemption of certain computer services.** (a) There shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the gross proceeds arising from technical services necessary for the production and sale of computer software where that software is shipped or transmitted by the provider of technical services to a customer at a point outside the State for use outside the State.

As used in this section:

“Computer software” means a set of computer programs, procedures, or associated documentation concerned with the operation and function of a

computer system, and includes both systems and application programs and subdivisions, such as assemblers, compilers, routines, generators, and utility programs.

“Technical services” include the development, design, modification, and programming of computer software.

(b) For the purposes of this section, the provider of technical services shall take from the purchaser a certificate, in such form as the department shall prescribe, certifying that the software purchased is to be used outside the State. Any purchaser who shall furnish such a certificate shall be obligated to pay to the provider of technical services, upon demand, if the software purchased is used or sold by the purchaser in the State, the amount of the additional tax which by reason of such use or sale is imposed upon the provider of technical services.”

SECTION 5. Section 237-21, Hawaii Revised Statutes, is amended to read as follows:

“**§237-21 Apportionment.** If any person, other than persons liable to the tax on manufacturers as provided by section 237-13(1), is engaged in business both within and without the State or in selling goods for delivery outside the State, and if under the Constitution or laws of the United States or section 237- or 237- the entire gross income of such person cannot be included in the measure of this tax, there shall be apportioned to the State and included in the measure of the tax that portion of the gross income which is derived from activities within the State, to the extent that the apportionment is required by the Constitution or laws of the United States[.] or section 237- or 237-. In the case of a tax upon the production of property in the State the apportionment shall be determined as in the case of the tax on manufacturers. In other cases, if and to the extent that the apportionment cannot be accurately made by separate accounting methods, there shall be apportioned to the State and included in the measure of this tax that proportion of the total gross income, so requiring apportionment, which the cost of doing business within the State, applicable to the gross income, bears to the cost of doing business both within and without the State, applicable to the gross income.”

SECTION 6. Section 237-25, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

“(d) Millers or processors of sugar, and canners of pineapple and pineapple juice, shall be exempt from tax only when the products are sold, as provided in subsection (a), for use and consumption in the State. The manufacturers, claiming tax exemption for such products, shall furnish the department of taxation certificates of the purchasers, in the form prescribed by the department, certifying that such products have been purchased for use and consumption in the State. As to sugar, pineapple, and pineapple juice, milled, processed, or canned in the State and sold as provided in subsection (a) but not for use and consumption in the State, the miller, processor, or canner shall be [subject to the tax imposed upon the miller, processor, or canner, as a manufacturer, by section 237-13(1).] exempt from tax as provided in section 237-

(e) The exemption granted by this section [shall not apply to the privilege of manufacturing or producing products sold for delivery outside the State or shipped or transported out of the State, but in other cases of products sold in the State as provided in subsection (a), the exemption] shall apply to the seller of products sold in the State as provided in subsection (a) in respect of the privilege of manufacturing or producing, as well as the

## ACT 240

privilege of selling, and the value or gross proceeds of sales of the products so sold shall be excluded from the measure of the tax imposed by chapter 237 upon the seller as a manufacturer or producer, [save] as provided in subsection (d).”

SECTION 7. This Part shall take effect on January 1, 1988.

### PART III

SECTION 8. Chapter 241, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§241- Capital goods excise tax credit. The capital goods excise tax credit provided under section 235- shall be operative for this chapter after December 31, 1987.”

SECTION 9. This Part, upon its approval, shall apply to taxable years beginning after December 31, 1987.

### PART IV

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 11. Subject to the foregoing effective dates, this Act shall take effect upon its approval.

(Approved June 24, 1987.)

#### Note

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 240

H.B. NO. 444

A Bill for an Act Relating to Unemployment Security.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 383-61, Hawaii Revised Statutes, is amended to read as follows:

“§383-61 Payment of contributions; wages not included. (a) Contributions with respect to wages for employment shall accrue and become payable by each employer for each calendar year in which the employer is subject to this chapter. The contributions shall become due and be paid by each employer to the director of labor and industrial relations for the fund in accordance with such regulations as the department of labor and industrial relations may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in such employer’s employ.

(b) For the purposes of this part, the term “wages” does not include remuneration paid with respect to employment to an individual by an employer during any calendar year which exceeds the average annual wage, rounded to the nearest hundred dollars, for the four calendar quarter period ending on June 30 of the preceding year.

The average annual wage shall be computed as follows: on or before November 30 of each year the total remuneration paid by employers, as reported on contribution reports on or before such date, with respect to all employment during the four consecutive calendar quarters ending on June

30 of such year shall be divided by the average monthly number of individuals performing services in such employment during the same four calendar quarters as reported on such contribution report<sup>1</sup>[.] and rounded to the nearest hundred dollars.

(c) For calendar year 1988 only, the term "wages" as used in this part does not include remuneration paid with respect to employment to an individual by an employer during the calendar year which exceeds:

- (1) One hundred per cent of the average annual wage if the most recently computed ratio of the current reserve fund to the adequate reserve fund prior to that calendar year is equal to or less than .80; or
- (2) Seventy-five per cent of the average annual wage if the most recently computed ratio of the current reserve fund to the adequate reserve fund prior to that calendar year is greater than .80 but less than 1.2; or
- (3) Fifty per cent of the average annual wage if the most recently computed ratio of the current reserve fund to the adequate reserve fund prior to that calendar year is equal to or more than 1.2;

provided that "wages" with respect to which contributions are paid are not less than that part of remuneration which is subject to tax in accordance with section 3306(b) of the Internal Revenue Code.

[(c)] (d) If an employer during any calendar year acquires substantially all the property used in a trade or business, or in a separate unit of a trade or business, of another employer, and after the acquisition employs an individual who prior to the acquisition was employed by such predecessor, then for the purpose of determining whether such remuneration in excess of the average annual wages has been paid for such employment to the individual, remuneration paid to the individual by such predecessor during the calendar year shall be considered as having been paid by the successor employer. For the purposes of this subsection, the term "employment" includes services constituting employment under any employment security law of another state or of the federal government.

[(d)] (e) Subsections (b) [and], (c), and (d) of this [subsection] section notwithstanding, for the purposes of this part, the term "wages" shall include at least that amount of remuneration paid in a calendar year to an individual by an employer or the employer's predecessor with respect to employment during any calendar year which is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

Note

1. So in original.

## ACT 241

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that a substantial increase in the need for training local residents is anticipated if the State is to succeed in attracting new investment by companies locating in our new high technology parks across the State.

The purpose of this Act is to institute such a program to coincide with the opening of the facilities, thereby providing an inducement for businesses to relocate and hire local workers.

The establishment of the new industry training program is consistent with Hawaii's economic development plan for diversification, in general, and high technology, in particular, and will provide strong encouragement for businesses to relocate their operations to Hawaii or to expand existing operations within the State.

**SECTION 2.** Chapter 394, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§394- New industry training program.** (a) There is hereby established the new industry training program, which shall be administered by the department of labor and industrial relations. Program moneys may be used to tailor training or retraining programs to meet the needs of qualifying businesses, to reimburse instructors for valid and approved expenditures in delivering instruction under the program, to rent appropriate training facilities and equipment, when necessary, to purchase or develop materials required to deliver the instruction, and for any other training-related expenses.

(b) The department shall utilize the resources of the University of Hawaii, including the community college system, the high technology development corporation, and other educational and training resources in the public and private sectors throughout the State as may be appropriate to be used to provide preemployment or employment training or on-the-job training for local residents hired by businesses relocating to Hawaii or expanding their local operations. The department may contract for these training needs from public agencies including the various University of Hawaii campuses, private educational institutions, nonprofit corporations, or private entities in order to provide the required training.”

**SECTION 3.** Chapter 394, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§394- Eligibility requirements.** (a) In order to be eligible for state-assisted training or retraining under section 394- , businesses must:

- (1) Be licensed to do business in Hawaii;
- (2) Establish or expand operations in Hawaii; and
- (3) Be engaged in research, development, manufacturing, production, or delivery of services in growth industries such as, but not limited to, electronics, software, instrumentation, biotechnology, renewable energy, telecommunications, computers, mariculture, aquaculture, tropical agriculture, Hawaiian natural products, and space applications including astronomical research.

(b) The department may adopt rules to further clarify qualifying businesses and industries, eligible job positions for training, and eligible persons for job training to promote economic expansion within the State and may consult with the department of planning and economic development prior to issuing these rules.”

SECTION 4. The department of labor and industrial relations, in contracting for training services to support new industry development and the expansion of growth industries, shall coordinate its planning and implementation of the new industry training program with other available federal and state educational and training programs.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000, or so much thereof as may be necessary, for fiscal year 1987-1988 to be expended by the department of labor and industrial relations to carry out the purposes of this Act. The department of labor and industrial relations is authorized to contract for recruitment, education, and training services. These services shall be exempted from chapter 42, Hawaii Revised Statutes, in order that the funds for these services may be expended in a timely and flexible manner to effectuate the purposes of this Act.

SECTION 6. The director of planning and economic development, in cooperation with the director of labor and industrial relations, shall report annually to the legislature, prior to convening, on the success of the program in inducing new business activity into the State, in job creation and retention, and on the impact of the program upon economic diversification within the State.

SECTION 7. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 242**

S.B. NO. 1154

A Bill for an Act Relating to the Hawaii Innovation Development Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that there exists in the State a serious shortage of early stage financing to promote product and process development by exploiting new technology, and that this shortage hampers the development of new and diverse business enterprises and job opportunities.

The legislature further finds that early stage financing of entrepreneurs and new business can be achieved by expanding the scope of chapter 211E, relating to the Hawaii invention development program, of the Hawaii Revised Statutes.

SECTION 2. The title of chapter 211E, Hawaii Revised Statutes, is amended to read as follows:

**“HAWAII [INVENTION] INNOVATION  
DEVELOPMENT PROGRAM”**

SECTION 3. Section 211E-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

## ACT 243

““Innovation” means any new product or invention.

“Inventor” means any resident taxpayer subject to the jurisdiction of the laws of the State of Hawaii who develops an innovation.

“Loan” means financing in which the department of planning and economic development shall prescribe the form of participation under section 211E-2(b) to carry out the purposes of this chapter.”

SECTION 4. Section 211E-2, Hawaii Revised Statutes, is amended to read as follows:

“[§211E-2] Hawaii [invention] innovation development fund; establishment. (a) There is established a revolving fund to be known as the Hawaii [invention] innovation development fund to be administered by the department of planning and economic development for the purpose of promoting the development of new products or inventions that have direct economic benefits for Hawaii. The department shall provide low interest loans pursuant to subsection (b) to inventors for the development of their new product or invention. All moneys received as repayment of loans and interest payment shall be deposited in the fund.

(b) The department shall adopt rules pursuant to chapter 91 to carry out the purposes of this chapter including the following:

- (1) Prescribe the qualification for eligibility of loan applicants;
- (2) Establish preferences and priorities in determining eligibility for loans and loan repayments;
- (3) Determine the necessity for and the extent of security required in any loan; [and]
- (4) Establish the interest rates chargeable by the State; provided that each loan granted under this section shall bear a simple interest which shall not exceed seven and one-half per cent[.]; and
- (5) Prescribe the forms of financial participation the department may engage in as a result of making a loan under this chapter, including but not limited to warrants, options, or royalties on sales or earnings.”

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 for fiscal year 1987-1988 to be deposited into the Hawaii innovation development fund to be expended by the department of planning and economic development to carry out the purposes of this chapter.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 1987.

(Approved June 24, 1987.)

## ACT 243

H.B. NO. 1502

A Bill for an Act Relating to a Capital Loan Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 210-6, Hawaii Revised Statutes, is amended to read as follows:

“§210-6 Direct loans, terms, and restrictions. The department of planning and economic development may make loans to small business



concerns for the financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials, or for the supplying of working capital. The loans may be made in conjunction with loans made by other financial institutions, including the SBA. Where the loans made by the department are secured, the security may be subordinated to the loans made by other financial institutions, when the subordination is required in order to obtain loans from such institutions. The necessity for and the extent of security required in any loan shall be determined by the director of planning and economic development.

The foregoing powers shall be subject, however, to the following restrictions and limitations:

- (1) No loans shall be granted unless financial assistance is not available to the applicant.
- (2) The amount of the loan or loans to any one applicant at any one time shall in no case exceed a total of [~~\$250,000.~~] \$1,000,000.
- (3) No loan shall be made for a term exceeding twenty years.
- (4) Each loan shall bear simple interest at the rate of seven and one half per cent a year.
- (5) The commencement date for the repayment of the first installment on the principal of each loan may be deferred by the director, but in no event shall such initial payment be deferred in excess of five years.
- (6) The payment of interest on the principal of a loan may be deferred by the director, but in no event shall interest payments be deferred in excess of two years from the date of issuance of the loan."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

## ACT 244

H.B. NO. 1227

A Bill for an Act Relating to Space.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The State of Hawaii, by virtue of its geography, geology, and other special attributes, may be an ideal location to establish a significant new industry based on space technology. Space activities promise enormous growth potential into the twenty-first century. Hawaii perhaps can capitalize upon this opportunity by further utilizing its natural assets including: accessible high mountains, ideal temperature ranges, clear air, and geographic location.

Already in place is the world-class facility on Mauna Kea for optical and infrared astronomy, a satellite-tracking facility on Haleakala, and state-of-the-art telecommunications facilities throughout the State. The ability to launch both polar and equatorial satellites from Hawaii is also unequalled at any other U.S. location. The ongoing activities, along with Hawaii's natural assets, need to be integrated into a comprehensive program if we are to promote space activities as a new, major growth industry in the State.

## ACT 244

The legislature finds that the space technology industry may be appropriate for Hawaii if it would utilize our unique characteristics and still be compatible with our goals of maintaining our natural environment and developing an industry with challenging growth opportunities for our children.

The purpose of this Act is to appropriate funds to explore the feasibility of establishing a major space technology industry in Hawaii.

Furthermore, the University of Hawaii will participate in this effort and may be supportive through its development of technologies to produce hydrogen from indigenous energy sources through the Hawaii Natural Energy Institute, so that the availability of hydrogen fuel for the spaceport can be assured.

**SECTION 2.** The department of planning and economic development shall conduct a preliminary feasibility evaluation which shall include, but not be limited to, a feasibility study analyzing the necessary land infrastructure and support services and identifying possible environmental and social impacts which would be created by a space technology industry in Hawaii based on research activities, commercial activities, a satellite launch facility, and related services. The feasibility study should also identify estimated costs for the development of the space industry and launch facility and inventory potential sites, including an evaluation of Palmyra as a possible location for the launch facility.

To the extent possible for such a preliminary feasibility study contemplated to be the first of a series of increasingly more detailed studies, the following specific areas are to be included:

- (1) The nature and number of jobs likely to be created directly and indirectly;
- (2) The training needed to prepare people for these jobs;
- (3) The general infrastructure requirements of such a facility, such as power and water supplies, housing, schools, hospitals, transportation, recreational services, and possible other needs;
- (4) General land requirements including buffer zones, potential need for condemnation, and effect on land under the jurisdiction of Hawaiian Homes;
- (5) Need for construction of a deep draft harbor;
- (6) Importance of wind conditions, wind shear, earthquake potential, and other natural hazards;
- (7) Potential noise pollution; and air, sea, and water pollution from aluminum, aluminum oxide, hydrochloric acid, or other chemicals;
- (8) Potential risk posed to residents surrounding launch sites from accidental or intentional destruction of rockets, and from transportation of dangerous materials;
- (9) Potential impact on agriculture, aquaculture, and the fishing industry operating near launch sites;
- (10) Potential impact on marine mammals or other wildlife;
- (11) Potential impact on historic sites surrounding launch sites;
- (12) Potential impact on astronomical facilities on Mauna Kea;
- (13) State and county permit requirements for space facilities; and
- (14) Potential liability for county or state governments or the general public.

It shall prepare a version of the preliminary feasibility study to be available for circulation at the international space conference to be held in

Hawaii in August 1987. Subsequent feasibility evaluation may be conducted as required.

In addition to the feasibility study, the department of planning and economic development may undertake the necessary steps to acquaint national and international space interests with Hawaii's desire to be considered as a site for a major space center. This may include sponsoring space-related conferences and seminars to collect information and acquaint experts with Hawaii's unique characteristics in this area.

A final copy of the preliminary feasibility evaluation, including recommendations for further expenditures in fiscal year 1988-1989, and subsequent feasibility evaluation reports which may have been completed, shall be submitted to the legislature twenty days prior to the convening of the regular session of 1988.

**SECTION 3.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$450,000 for fiscal year 1987-1988 to carry out the purpose of this Act. The sum appropriated shall be expended by the department of planning and economic development.

**SECTION 4.** This Act shall take effect on July 1, 1987.

(Approved June 24, 1987.)

## ACT 245

S.B. NO. 350

A Bill for an Act Relating to Smoking in the Workplace.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Because smoking is dangerous to the health of smokers and others who must breathe secondhand smoke in confined places, the legislature declares that the purpose of this Act is to protect the public health by requiring government offices to adopt office smoking policies that accommodate the preferences of nonsmokers and smokers and, if satisfactory accommodation cannot be reached, to adopt policies reflecting the preference of a simple majority of the employees in each affected area in the office work place. This Act is intended to regulate smoking in the workplaces where the government allows employees to smoke, and is not intended to create any right to smoke or to impair or alter the government's prerogative to prohibit smoking in the work place.

**SECTION 2.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### "CHAPTER SMOKING IN THE WORK PLACE

§ -1 **Title.** This chapter shall be known and may be cited as the Smoking in the Work Place Act.

§ -2 **Definitions.** For the purpose of this chapter:

"Employee" means any person who is employed more than twenty hours per week by any employer in consideration for direct or indirect monetary wages or profit.

"Employer" means any state or county agency.

“Enclosed” means closed in by a roof and four walls with openings for ingress and egress. Areas commonly described as public lobbies are not enclosed for the purposes of this chapter.

“Office work place” means any enclosed structure or portion thereof used by governmental entities.

“Simple majority” means any number greater than half of the persons expressing a preference in any specific work area.

“Smoking” or “to smoke” means inhaling and exhaling the fumes of burning tobacco or any other plant material, or burning or carrying any lighted equipment for smoking tobacco or any other plant material, or the personal habit commonly known as smoking.

**§ -3 Regulation of smoking in the office work place.** (a) Each employer in the State shall within three months after the effective date of this chapter adopt, implement, and maintain a written smoking policy which shall contain, at the minimum, the following provisions and requirements:

(1) That if any nonsmoking employee objects to the employer about smoke in the employee’s work place, the employer, using already available means of ventilation or separation or partition of office space, shall attempt to reach a reasonable accommodation, insofar as possible, between the preferences of nonsmoking and smoking employees; provided that an employer is not required by this chapter to make any expenditures or structural changes to accommodate the preferences of nonsmoking or smoking employees; and

(2) That if an accommodation which is satisfactory to all affected employees cannot be reached in any given office work place, the preferences of a simple majority of employees in each specifically affected area shall prevail and the employer shall accordingly prohibit or allow smoking in that particular area of the office work place. If the employer’s decision is unsatisfactory to the nonsmoking employees, a simple majority of all nonsmoking employees can appeal to the director of health for the determination of a reasonable accommodation. Where the employer prohibits smoking in an office work place, the area in which smoking is prohibited shall be clearly marked with signs.

(b) The smoking policy shall be announced within two weeks of the vote of preferences of the employees in each respective work area and posted conspicuously in all the affected work places.

**§ -4 Where smoking not regulated.** This chapter does not regulate smoking in the following places and under the following conditions within the State:

- (1) Any property owned or leased by federal governmental entities; or
- (2) Private enclosed office work places occupied exclusively by smokers, even though such office work places may be visited by nonsmokers, excepting places in which smoking is prohibited by a county fire department or by other law, ordinance, rule, or regulation.

**§ -5 Penalties and enforcement.** (a) The director of health shall enforce section -3 against violations by the following actions:

- (1) Serving notice requiring the correction of any violation of this chapter;

- (2) Calling upon the attorney general to maintain an action for injunction to enforce this chapter, to cause the correction of any violation, and for assessment and recovery of a civil penalty for such violation; or
- (3) Calling upon the governor, or the mayor, as the case may be, to enforce compliance.

(b) Any person who violates section -3 shall be liable for a civil penalty not to exceed \$500, which penalty shall be assessed and recovered in a civil action in any court of competent jurisdiction. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. Any penalty assessed and recovered in an action brought pursuant to this section shall be paid to the general fund.

(c) Any member of the general public may request the department of health to enforce any violations of this chapter.

(d) In enforcing this chapter, the State is undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

§ -6 **Additional to provisions on smoking in state facilities.** This chapter shall be additional to the provisions under chapter 321, part XVII. In case of conflict between this chapter and chapter 321, part XVII, the stricter prohibition on smoking shall apply."

SECTION 3. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

## ACT 246

S.B. NO. 444

A Bill for an Act Relating to Barbering.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 438-1, Hawaii Revised Statutes, is amended to read as follows:

**"§438-1 Definitions.** For the purpose of this chapter:

"Apprentice" is a person who is engaged in learning or acquiring within a barbering establishment or school, and while learning assists in, any of the practices mentioned herein under the immediate direction and supervision of a barber or instructor.

"Barber" is a person, not an apprentice, who engages in [and follows any of such practices.] the practice of barbering.

"Barber shop" means any establishment or place of business wherein the practice of barbering is engaged or carried on and is the primary purpose of that establishment or business[.]; provided that the practice of cosmetology is allowed in that establishment or place of business.

"Board" means the board of barbers created under this chapter.

"Department" means the department of commerce and consumer affairs.

"Director" means the director of commerce and consumer affairs.

"Practice of barbering" means any combination of the following practices for remuneration: shaving, cutting, trimming, singeing, shampooing, arranging, dressing, curling, waving, or coloring the hair or beard or

## ACT 246

applying tonics or other preparation thereto; massaging, cleansing, or applying oils, creams, lotions, or other preparation to the face, scalp, or neck, either by hand or by mechanical appliances; provided that nothing in this chapter shall be construed as applicable to those persons licensed under chapter 439 to practice the occupations named therein.”

SECTION 2. Section 438-2, Hawaii Revised Statutes, is amended to read as follows:

**“§438-2 Certificate of registration required.** (a) It shall be unlawful for any person in the State to engage in the practice of barbering for compensation unless the person has first obtained a certificate of registration[.] or temporary permit.

(b) It shall be unlawful for any person to operate a barber shop in the State unless the person has first registered the barber shop.

(c) The practice of barbering shall be carried on only by persons duly registered to practice in this State and only in registered barber shops, except that a duly registered barber may practice barbering at a health care, nursing, mental or correctional facility, barber school, beauty shop, charitable event, or a person’s private home, office, or hotel room when requested to do so.”

SECTION 3. Section 438-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**“(a)** The board [of barbers] may give examinations for the issuance of certificates of registration to practice barbering[;] or issue temporary permits; grant, revoke, or suspend certificates[;] or temporary permits; establish, subject to chapter 91 and with the approval of the governor and the director [of commerce and consumer affairs], rules governing the practice of barbering which shall have the force and effect of law.”

SECTION 4. Section 438-6, Hawaii Revised Statutes, is amended to read as follows:

**“§438-6 Appeal from actions of the board.** (a) An appeal may be taken from [an] a final action of the board [of barbers refusing to grant or] suspending or revoking a certificate for the causes mentioned in section [438-5] 438-14 to the circuit court of the circuit in which the person [who has been refused a certificate or] whose certificate has been suspended or revoked resides. The judgment of the circuit court may be reviewed by the supreme court.

(b) Any person aggrieved by the denial or refusal of a certificate or temporary permit by the board shall submit a request for a hearing pursuant to chapter 91 within sixty days of the date of the denial or refusal.”

SECTION 5. Section 438-7, Hawaii Revised Statutes, is amended to read as follows:

**“§438-7 Applications.** Each person who desires to practice as a barber or as an apprentice barber shall file with the board a written application, under oath, on a form prescribed and supplied by the board, shall submit satisfactory proof of the required age [and freedom from infectious or contagious diseases], and shall deposit with the board the required fees and [two photographs] a passport sized photograph of the applicant [of a size to be determined by the board].”

SECTION 6. Section 438-8, Hawaii Revised Statutes, is amended to read as follows:

**“§438-8 Requisites for admission to examinations [and registration].**

The executive secretary of the board [of barbers] shall determine the sufficiency of the preliminary qualifications of applicants for admission to examinations [and registration]. [The following preliminary qualifications shall be sufficient:

- (1) Apprentices shall be at least seventeen years of age.
- (2) Barbers] Applicants shall be at least seventeen years of age and have practiced as a barber or an apprentice for a period of at least six months under the immediate personal supervision of a registered barber.

The board shall contract with [the same] a professional testing service [as the board of cosmetology] to have the testing service prepare and provide examinations for applicants as may be required for the purposes of this chapter. The examinations shall [include practical demonstrations; provided that the practical examination for waving and hair coloring shall be the same as the practical examination administered to cosmetologists; and written, or in prescribed circumstances, oral tests.] not be confined to any specific system or method, and the examinations shall be consistent with the practical and theoretical requirements as provided by this chapter.

Every applicant who is required by the board to be examined shall pay an examination fee as provided in rules adopted by the director pursuant to chapter 91. [The examination fee may be paid directly to the professional testing service by the director or the examinee or deposited with the director of finance to the credit of the general fund.]”

SECTION 7. Section 438-9, Hawaii Revised Statutes, is amended to read as follows:

**“§438-9 Certificates.** If [an] a barber applicant passes the examination to the satisfaction of the board [of barbers], and has paid the fee required and complies with the requirements pertaining to the applicant, the board shall issue a certificate signed by the chairman and executive secretary and attested by its seal. The certificate is evidence that the person to whom it is issued is entitled to practice as a [registered apprentice barber or as a] registered barber[, as the case may be]. The certificate shall be conspicuously displayed adjacent to or near the person’s work chair. [No registered apprentice may independently practice barbering, but may as an apprentice do any or all of the acts constituting the practice of barbering under the immediate personal supervision and employment of a registered barber.]”

SECTION 8. Section 438-10, Hawaii Revised Statutes, is amended to read as follows:

**“§438-10 Temporary [certificates.] permits.** (a) Any person who is at least [eighteen] seventeen years of age and either:

- (1) [has] Has a certified or photostat copy of a certificate, or certificate of registration, or license as a practicing barber from another state or country which has substantially the same requirements for licensing or registering barbers as required by this chapter[.]; or
- (2) [who can] Can prove to the satisfaction of the board [of barbers] that the person has practiced as a barber in another state or country for at least five years immediately prior to making application in this State, shall, upon payment of the required fee, be issued a permit to practice as a [journeyman] barber [only] until the person is called by the board for examination to determine the person’s fitness to receive a certificate of registration to

practice barbering. If the applicant fails to pass the required examination, the applicant shall be allowed to practice as a [journeyman] barber until called by the board for the next term of examinations. [If the applicant fails at the third examination, the applicant shall cease to practice barbering in this State.]

(b) Any [apprentice] person who is at least [sixteen] seventeen years of age and has a certificate of registration or permit as an apprentice in a state or country which has substantially the same requirements for registration as an apprentice as is provided by this chapter, shall, upon payment of the required [fee,] fees, be issued a permit to work as an apprentice until called by the board for examination to determine the applicant's fitness to receive a certificate of registration [as an apprentice.] to practice as a registered barber. [If the applicant passes the required examination a certificate of registration as a registered apprentice shall be issued to the applicant and the] The time spent in [such other] that state or country as an apprentice shall be credited [by this chapter as a] towards qualification to take the examination to determine the applicant's fitness to receive a certificate of registration as a registered barber[.] under this chapter.

(c) Any person who is at least seventeen years of age and who pays the required fees shall be issued a permit to train as an apprentice for six months or until called by the board for examination to determine the applicant's fitness to receive a certificate of registration to practice as a registered barber. No apprentice may independently practice barbering, but may as an apprentice do any or all of the acts constituting the practice of barbering under the immediate personal supervision and employment of a registered barber."

SECTION 9. Section 438-11, Hawaii Revised Statutes, is amended to read as follows:

"**§438-11 Fees.** (a) Applicants for barber [and apprentice barber] certificates of registration shall pay application, examination, and registration fees.

(b) Applicants for renewal of certificates to practice barbering [and to practice as an apprentice] and applicants for restoration of expired certificates shall pay the required fees.

(c) Applicants to conduct a barber shop shall pay application and registration fees. Applicants for biennial renewal of a certificate to conduct a barber shop and for the restoration of an expired certificate shall pay the required fees.

(d) Applicants for temporary permits shall pay application and registration fees.

[(d)] (e) A duplicate certificate shall be issued upon the filing of a statement covering the loss of a certificate or permit, verified by the oath of the applicant, and the submission by the applicant of one signed photograph of the applicant, and the payment of a duplicate fee. Each duplicate certificate or permit shall have the word "duplicate" stamped across the face thereof, and shall bear the same number as the certificate or permit that it was issued in lieu of.

[(e)] (f) All fees required by this chapter shall be as provided in rules adopted by the director [of commerce and consumer affairs] pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund[.], except that the examination fee required in section 438-8 may be paid directly to the professional testing service by the department or examinee."



SECTION 10. Section 438-13, Hawaii Revised Statutes, is amended to read as follows:

**“§438-13 Penalties.** Any person who practices barbering, operates a barber shop, or acts in any capacity wherein a certificate or temporary permit is required, without a certificate or temporary permit as provided in this chapter shall be fined not more than \$100, or imprisoned not more than six months, or both. Each and every day of violation shall be a separate offense.”

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

## ACT 247

S.B. NO. 456

A Bill for an Act Relating to Thrill Craft.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 267, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§267- Operation of thrill craft.** (a) No person shall operate a thrill craft unless the person is fifteen years of age or older.

(b) The department shall adopt rules to designate areas where thrill craft may be operated.

(c) From July 1, 1988, no person shall operate a thrill craft in the waters of the State, except:

(1) In areas designated by the department; and

(2) Through areas designated by the department to serve as avenues for the ingress and egress of thrill crafts between the areas designated under paragraph (1) and the shore.”

SECTION 2. Section 267-3, Hawaii Revised Statutes, is amended to read as follows:

**“§267-3 Definitions.** In this chapter, if not inconsistent with the context:

[(1)] “Boat dealer” means a person engaged wholly or partly in the business of selling or offering for sale, buying or taking in vessels for the purpose of resale, or exchanging vessels, for gain or compensation.

[(2)] “Boat livery” means the business of holding out vessels for rent, lease, or charter.

[(3)] “Boat manufacturer” means a person engaged in:

[(A)] (1) The manufacture, construction, or assembly of boats or associated equipment; or

[(B)] (2) The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly; or

[(C)] (3) The importation into the United States for sale of boats, associated equipment, or components thereof.

[(4)] “Boating accident” means any occurrence involving a vessel or its equipment that results in:

[(A)] (1) The death of a person;

ACT 247

- [(B)] (2) The loss of consciousness by any person, the receipt of medical treatment by any person, or the incapacity of any person for more than twenty-four hours;
- [(C)] (3) Damage to the vessel and other property totalling more than ~~[\$100;] \$200;~~ or
- [(D)] (4) The disappearance of a person from the vessel under circumstances that indicate death or injury.
- [(5)] "Certificate" means certificate of number.
- [(6)] "Coast guard" means the Coast Guard of the United States, or its successor agency.
- [(7)] "Department" means the department of transportation.
- [(8)] "Director" means the director of transportation.
- [(9)] "Federal laws and requirements" means all statutes, rules, and regulations, and other laws of the United States, which may be applicable to any and all subject matters of this chapter, and of the rules and regulations adopted and promulgated pursuant to this chapter.
- [(10)] "Length" means the measurement of a vessel from end to end over the deck.
- [(11)] "Operate" means to navigate or otherwise use a vessel on or in the waters of the State.
- [(12)] "Operator" means a person who operates or who has charge of the navigation or use of a vessel.
- [(13)] "Person" means an individual, partnership, firm, corporation, association, or other legal entity.
- [(14)] "State" means the State of Hawaii.
- "Thrill craft" means any motorized vessel which is generally less than thirteen feet in length as manufactured, is capable of exceeding a speed of twenty miles per hour, and has the capacity to carry not more than the operator and one other person while in operation. The term includes but is not limited to a jet ski, wet bike, surf jet, miniature speed boat, and hovercraft.
- [(15)] "Undocumented vessel" means any vessel which does not have and is not required to have a valid marine document as a vessel of the United States.
- [(16)] "Vessel" means all description of watercraft, used or capable of being used as a means of transportation on or in the water, except a seaplane.
- [(17)] "Waters of the State" means any waters within the jurisdiction of the State, the marginal seas adjacent to the State, and the high seas when navigated as a part of a journey or ride to or from the shores of the State."

SECTION 3. Section 267-4, Hawaii Revised Statutes, is amended to read as follows:

**"§267-4 Rules [and regulations].** The department of transportation shall from time to time make, alter, amend, and repeal rules [and regulations] not inconsistent with the law as may be reasonably necessary to implement the policy and purpose of this chapter, and in such adoption and promulgation the department may classify vessels into appropriate categories and classes.

Without limiting the generality of the department's power to adopt and promulgate other rules [and regulations] pursuant to this section, it shall adopt and promulgate rules [and regulations] with respect to the following:

- (1) The registration and numbering of vessels;
- (2) The operation, use, and equipment of vessels on or in the waters of the State; [and]

- (3) The conduct of persons involved in boating accidents and in the reporting of the accidents and other casualties and losses to the department[.]; and
- (4) The designation of areas of the waters of the State on which thrill crafts may be operated.

Rules [and regulations] made pursuant to the powers granted under this section shall be adopted and promulgated pursuant to chapter 91 and shall, upon being duly adopted and promulgated, have the force and effect of law.”

SECTION 3.<sup>1</sup> Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 4.<sup>1</sup> This Act shall take effect upon its approval.

(Approved June 24, 1987.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 248

S.B. NO. 492

A Bill for an Act Relating to Tax Increment Financing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Three high technology parks are under development in the State of Hawaii including the Hawaii technology park at Mililani Town on Oahu, the Maui research and technology park at Kihei, and the Hawaii ocean science and technology (HOST) park at Keahole Point on the island of Hawaii. These and any future high technology parks have the potential to provide high quality jobs for Hawaii's people and diversification of its economy.

The legislature finds that it would be advantageous to the marketing of these parks if assistance is provided to the high technology firms that consider locating there in funding the construction of their facilities. One form of assistance that has proven successful in other areas is “tax increment financing”. Act 267 of the Session Laws of Hawaii 1985 authorized the counties to establish tax increment districts and established tax increment financing procedures. Act 267, however, limits the use of tax increment financing to projects in which there is a redevelopment plan or community development plan.

Hawaii's high technology parks do not satisfy this requirement and are not currently eligible for tax increment financing. The legislature finds that it would be in the public interest to include these high technology parks.

The legislature further finds that it would be in the public interest to include telecommunications developments and other areas which the county may deem appropriate.

SECTION 2. Section 46-102, Hawaii Revised Statutes, is amended as follows:

- (1) By adding a new definition of “high technology parks” to read:

“High technology parks” means an industrial park that has been developed to accommodate and support high technology activities including the Hawaii technology park at Mililani town, city and county of Honolulu.

## ACT 248

the Maui research and technology park, Maui county, and the Hawaii ocean science and technology (HOST) park, Hawaii county."

(2) By amending the definition of "tax increment district" to read:

"Tax increment district" or "district" means a contiguous or non-contiguous geographic area [within a redevelopment area or a community development area] designated pursuant to section 46-103 by the county council for the purpose of tax increment financing."

SECTION 3. Section 46-103, Hawaii Revised Statutes, is amended to read as follows:

**"§46-103 Establishment of tax increment district.** Any county council may provide for tax increment financing by approving a tax increment financing plan[. If a redevelopment agency desires to establish tax increment financing as part of a redevelopment plan or community development plan, as the case may be, it may designate all or part of the area included within a redevelopment plan or community development plan, as the case may be, as a tax increment district, develop a tax increment financing plan, and submit the plan to the council for its approval. If the council approves a tax increment financing plan, it shall adopt] and adopting an ordinance establishing the tax increment district. The ordinance shall:

- (1) Describe the boundaries of the tax increment district;
- (2) Provide for the date of commencement of the tax increment district and date of termination of the district;
- (3) Provide for the establishment of a tax increment fund for the district; and
- (4) Provide for such other matters deemed to be pertinent and desirable for tax increment financing and not inconsistent with [the] any relevant redevelopment plan [or], community development plan, high technology park plan, or telecommunication development plan [as the case may be]."

SECTION 4. Section 46-104, Hawaii Revised Statutes, is amended to read as follows:

**"§46-104 County powers.** A county may exercise any power necessary and convenient to establish tax increment districts, including the power to:

- (1) Create tax increment districts [as part of a redevelopment plan or community development plan, as the case may be,] and determine the boundaries of the districts;
- (2) Issue tax increment bonds;
- (3) Deposit tax increments into the tax increment fund created for a tax increment district; and
- (4) Enter into agreements, including agreements with the redevelopment agency and owners or developers of project lands and bondholders, determined to be necessary or convenient to implement redevelopment plans or community development plans, as the case may be, and achieve their purposes."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

A Bill for an Act Relating to Closed Banks.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 403, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to be appropriately designated and to read:

**“§403- Priority of expenses and claims.** In the event of the insolvency or voluntary or involuntary liquidation of any bank under this chapter, the expenses and claims shall have priority in the following order:

- (1) Administrative expenses;
- (2) Unsecured claims for wages, salaries, or commissions, including vacation, severance or sick leave pay, earned by an individual within ninety days before the date of the commissioner's possession in an amount not exceeding \$2,000 for each individual;
- (3) Claims of depositors. Any corporation guaranteeing or insuring the deposits is subrogated to all rights of the owners of such deposits to the extent of payment. The right of any agency of the United States insuring deposits to be subrogated to the rights of depositors upon payment of their claims may not be less extensive than the law of the United States requires as a condition of the authority to issue such insurance or make such payments to depositors of national banks;
- (4) All other unsecured claims in amounts allowed by the court, including claims of secured creditors to the extent the amount of their claims exceed the present fair market value of their collateral. The claim of a lessor for damages resulting from the termination of a lease of property may not be allowed in an amount in excess of the rent reserved by the lease, without acceleration, for sixty days after the lessor repossessed the leased property, or the leased property was surrendered to the lessor, whichever first occurs, whether before or after the commissioner took possession of the institution, plus any unpaid rent due under the lease, without acceleration, on the date of possession or surrender. A claim for damages resulting from the termination of an employment contract, may not be allowed in an amount in excess of the compensation provided by the contract, without acceleration, for ninety days after the employee was directed to terminate or the employee terminated performance under the contract, whichever first occurs, whether before or after the commissioner took possession of the institution, plus any unpaid compensation due under the contract, without acceleration, on the date the employee was directed to terminate or the employee terminated performance. Claims for damages resulting from the termination of employment contracts of persons who were in control of the institution are not entitled to priority under this subsection;
- (5) Claims for debts that are subordinated under the provisions of a subordination agreement or other instrument;
- (6) Claims of depositors who are controlling persons;
- (7) Claims of persons who were at any time in control of the institution;
- (8) All other claims.”

## ACT 249

2. By amending section 403-192 to read:

**“§403-192 Liquidation; administration by commissioner; court supervision; appeals.** Whenever the commissioner takes and holds possession of the property or business of a bank to liquidate its affairs, the liquidation shall be effected as in this chapter provided. Jurisdiction is conferred upon the circuit court of the circuit in which the principal office of any bank is located, upon petition filed by the commissioner or by any other party interested, or upon any request of the commissioner for instructions, to hear and determine any matter which by this part is stated to be subject to judicial review or approval in connection with the liquidation of any bank. From every order made by any circuit judge under this section an appeal shall lie to the supreme court in like manner as an appeal lies from an order or decision of a circuit court. The appeal shall not stay any order of the circuit judge unless the supreme court shall so order.

[Notice. In all such proceedings, such notice shall be given to depositors, creditors, and other interested persons as the judge may deem necessary under the circumstances to constitute due process, or may deem otherwise proper; the notice may, where the parties are numerous, be given by mail addressed to the persons to be notified at their last known places of business or other addresses, respectively, or by publication in a newspaper or newspapers of general circulation in the State in the manner provided by sections 634-23(3) and 634-26 or by both; provided that it shall not be necessary in any such cases that the entire petition or application be included in the notice, but only the designation of the cause by title (in full or abbreviated) and docket number, and the substance of the matter involved in a form approved by the judge and such other matters as the judge shall require, need be so included, and that the judge may authorize mailed notices to be authenticated merely by the stamped facsimile signature of the clerk of the court. In addition, the judge may, if the judge deems it advisable, appoint one or more persons to represent any interested persons who cannot be served or who are not otherwise represented in the proceedings.] Injunction. Within ten days after the taking of possession of the property and business of the bank by the commissioner, the bank may file in the circuit court of the circuit in which the principal office of the bank is located to enjoin further proceedings.”

3. By amending section 403-197 to read:

**“§403-197 Deputies; bond.** The commissioner may appoint and employ in the work of liquidation of any bank one or more deputies or agents, each of whom shall be required to execute a bond to the commissioner in the amount of \$10,000, if the total assets under the control of the deputy are less than \$25,000, or if the assets exceed \$25,000 the deputy’s bond shall be in such greater amount as shall on application be approved by the court, the bond in any case to be satisfactory to the commissioner as to its form and sufficiency, and to be conditioned that the deputy will faithfully perform the deputy’s duties in the premises. The cost of the bond shall be paid out of the funds of the bank in liquidation. The Federal Deposit Insurance Corporation is exempted from the requirement of posting a bond.”

4. By repealing section 403-196.

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

## SECTION 3. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 250

S.B. NO. 525

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§431- Premium waiver provisions; restrictions. (a) Whenever an insurance policy contains a provision or a rider for the waiver of premiums in the event of the total disability of the named insured, the waiver of premiums shall be applicable throughout the period of total disability or for the balance of the waiver period specified in the policy or the rider, whichever is shorter. To qualify for the premium waiver, the insured shall submit a certificate from a physician who is acceptable to both the insurer and the insured which attests to the insured's total disability and states the period of total disability. If the period of total disability cannot be established with reasonable medical certainty, the physician shall state an opinion of the period during which the disability is likely to persist. Once a certificate is so submitted to the insurer, the insurer shall not require any further certification during the stated period of disability or probable disability unless there is evidence of a change of circumstances.

(b) The foregoing provision shall apply to all insurance policies in existence on January 1, 1987 and thereafter.

(c) If a claim for premium waiver has been filed after expiration of the grace period specified in the insurance policy, and the qualifying disability has been proved, and the policy owner has demonstrated good faith and honest error justifying the late filing for premium waiver, the company shall refund premiums paid after the date the qualifying disability was diagnosed.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 251

S.B. NO. 533

A Bill for an Act Relating to Offender Families.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## “CHAPTER OFFENDER FAMILY SERVICE CENTER ACT

§ -1 **Findings and purpose.** The legislature finds and declares that maintaining an inmate’s family and community relationships is an effective correctional technique which reduces recidivism. The legislature further finds that enhancing visitor services increases the frequency and quality of visits, thereby discouraging violent prisoner activity; and that the location of prisons and the lack of services to assist visitors presently impedes visiting.

§ -2 **Definitions.** As used in this chapter:

“Center” means an offender family service center.

“Department” means that department of the State that has jurisdiction over the administration of the correctional facilities.

“Program” means the offender family service center program.

§ -3 **Offender family service center program; established.** (a) There is established in the department an offender family service center program near the Oahu community correctional center.

(b) The department may contract with a private non-profit agency pursuant to chapter 42 to implement this chapter.

§ -4 **Advisory council.** There is established within the department for administrative purposes an offender family service center program advisory council. The council shall consist of seven members, of whom two shall be offender family members. The members of the council shall be appointed by the director of social services in consultation with private secular and religious organizations. The council may review and make recommendations to the director to improve the services rendered by the center.

§ -5 **Purposes.** The purposes of the program and center are to provide the following services to families of offenders:

- (1) Provision of clothing donated to the center by private organizations or individuals;
- (2) Information on regulations and procedures governing visits;
- (3) Referral to other agencies and services; and
- (4) A shelter area, outside of the security perimeter, for visitors and visitors’ children who are waiting before or after visits.

§ -6 **Non-profit agency: criteria for selection.** The department shall employ all the following criteria in selecting a non-profit agency with which it may contract pursuant to section 3 of this chapter:

- (1) The number and quality of services proposed in comparison to direct program costs;
- (2) Prior experience in working cooperatively with the department of social services and housing, other correctional agencies, community programs, inmates, visitors, and the general public;
- (3) The ability to use volunteers and other community resources to maximize the cost effectiveness of the program.

§ -7 **Annual report.** The agency administering the program shall annually submit to the department and to the legislature a report to include, but not limited to, the following:

- (1) A quantitative and narrative description of the services rendered;
- (2) A description of the impact of the centers’ services to families;
- (3) A description of areas for improvement of services or coordination with other public or private agencies; and



(4) A description of the community resources which were utilized.

§ -8 Other provisions. Nothing in this part is intended to limit the department in developing additional programs or making all reasonable efforts to promote services to families of offenders under its jurisdiction."

SECTION 2. This Act shall take effect on July 1, 1988.

(Approved June 24, 1987.)

## ACT 252

S.B. NO. 539

A Bill for an Act Relating to Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purpose.** The legislature finds that certain liquor licensees in certain counties are bearing a disproportionate share of the costs and expenses of liquor regulation and that certain liquor commissions hold surplus funds resulting from the enforcement of existing liquor license fee structures. The purpose of this Act is to require all liquor license fees to bear a direct and proportionate relationship to a commission's costs and expenses and require refunds or credits of excess funds.

SECTION 2. Section 281-17.5, Hawaii Revised Statutes, is amended to read as follows:

"**[§281-17.5] Fees; justified, method of change[.], limitation.** (a) Any liquor license fee [created by any liquor commission] or any increase in an existing liquor license fee sought to be implemented by any commission shall have, as its justification, a direct and proportionate relationship to [an increase in] costs and expenses of the commission in its control, supervision, or regulation of the manufacture, importation, and sale of liquors, or otherwise directly relate to actual costs and expenses of administration of the commission as is set forth in this chapter.

(b) Any such liquor license fees collected or received by any liquor commission under this chapter may only be used for costs and expenses directly relating to operational and administrative costs actually incurred by the liquor commission collecting or receiving such liquor license fees. Such fees shall not be used for any costs or expenses other than those directly relating to its operation and administration.

(c) Any [change] increase in the liquor license fee structure shall only be initiated by the liquor commission seeking the change with the approval of the county's legislative body and mayor.

(d) Any liquor commission seeking a change in liquor license fee structure shall notify all licensees under this chapter affected by the change of the proposed change and shall notify each such licensee of the outcome and resolution of the change.

(e) Any liquor commission which currently receives a license fee from a licensee in excess of the amount prescribed by this section shall immediately revise its liquor license fee structure to conform with the requirements of this section. Effective July 2, 1988, any excess funds shall be returned or credited annually to existing licensees."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

**ACT 253**

**SECTION 4.** This Act shall take effect upon its approval.

(Approved June 24, 1987.)

**ACT 253**

**S.B. NO. 545**

**A Bill for an Act Relating to Long-Term Care Insurance.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to promote the availability of long-term care insurance, protect applicants from unfair or deceptive sales or enrollment practices, establish standards for long-term care insurance, facilitate public understanding and comparison of long-term care insurance policies, and facilitate flexibility and innovation in the development of long-term care insurance coverage.

**SECTION 2.** Chapter 431, Hawaii Revised Statutes, is amended by adding eleven new sections to be appropriately designated and to read as follows:

**“§431- Definitions.** As used in sections 431- to 431- unless the context requires otherwise:

**“Applicant” means:**

- (1) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits, and
- (2) In the case of a group long-term care insurance policy, the proposed certificate holder.

**“Certificate” means** any certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this State.

**“Commissioner” means** the insurance commissioner of this State.

**“Group long-term care insurance” means** a long-term care insurance policy:

- (1) Delivered or issued for delivery in this State and issued to:
  - (A) One or more employers or labor organizations, or a trust or the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organizations; or
  - (B) Any professional, trade or occupational association for its members or former or retired members, or combination thereof, if the association:
    - (i) Is composed of individuals all of whom are or were actively engaged in the same profession, trade, or occupation; and
    - (ii) Has been maintained in good faith for purposes other than obtaining insurance; or
  - (C) A group other than as described in subparagraphs (A) and (B), subject to a finding by the commissioner that:
    - (i) The issuance of the group policy is not contrary to the best interest of the public;
    - (ii) The issuance of the group policy would result in economies of acquisition or administration; and

- (iii) The benefits are reasonable in relation to the premiums charged.
- (2) Affording coverage to a resident of this State under a group policy issued in another state to a group described in paragraph (1)(C), if this State or another state having statutory and regulatory requirements substantially similar to those adopted in this State has made a determination that the requirements have been met.

“Long-term care insurance” means any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. The term includes group and individual policies or riders whether issued by insurers, fraternal benefit societies, nonprofit health, hospital, and medical service corporations, prepaid health plans, health maintenance organizations or any similar organization. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

“Policy” means any policy, contract, subscriber agreement, rider, or endorsement delivered or issued for delivery in this State by an insurer, fraternal benefit society, nonprofit health, hospital, or medical service corporation, prepaid health plan, health maintenance organization, or any similar organization.

**§431- Prohibition.** No insurance policy may be advertised, marketed, or offered as long-term care unless it complies with sections 431- to 431- . A policy which is not expressly or implicitly advertised, marketed, or offered as long-term care insurance or nursing home care insurance need not meet the requirements of this chapter.

**§431- Disclosure standards.** The commissioner may adopt rules under chapter 91 that include standards for full and fair disclosure setting forth the manner, content, and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, and definitions of terms.

**§431- Preexisting condition.** (a) No long-term care insurance policy may:

- (1) Be canceled, nonrenewed, or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or
- (2) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder.

(b) No long-term care insurance policy or certificate shall use a definition of preexisting condition which is more restrictive than the following: "preexisting condition" means the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care or treatment, or a condition for which medical advice or treatment was recommended by, or received from a provider of health care services within the periods specified below:

- (1) Six months preceding the effective date of coverage of an insured person who is sixty-five years of age or older on the effective date of coverage; or
- (2) Twenty-four months preceding the effective date of coverage of an insured person who is under sixty-five years of age on the effective date of coverage.

(c) No long-term care insurance policy may exclude coverage for a loss or confinement which is the result of a preexisting condition unless the loss or confinement begins within the periods specified below:

- (1) Six months following the effective date of coverage of an insured person who is sixty-five years of age or older on the effective date of coverage; or
- (2) Twenty-four months following the effective date of coverage of an insured person who is under sixty-five years of age on the effective date of coverage.

(d) The commissioner may extend the limitation periods in subsections (b) and (c) as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

(e) The definition of "preexisting condition" does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards.

**§431- Prior institutionalization.** No long-term care insurance policy which provides benefits only following institutionalization shall condition such benefits for long-term care service upon admission to a facility for the same or related conditions within a period of less than thirty days after discharge from the institution. Policies for long-term care insurance may, but need not, predicate provisions of benefits upon prior institutionalization.

**§431- Loss ratio standards.** The commissioner may adopt rules establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the rules.

**§431- Outline of coverage required.** An outline of coverage shall be delivered to an applicant for an individual long-term care insurance policy at the time of application for an individual policy. In the case of direct response solicitations, the insurer shall deliver the outline of coverage upon the applicant's request, but regardless of request shall make the delivery not later than at the time of policy delivery. The outline of coverage shall include:

- (1) A description of the principal benefits and coverage provided in the policy;
- (2) A statement of the principal exclusions, reductions, and limitations contained in the policy;

- (3) A statement of the renewal provisions, including any reservation in the policy of a right to change premiums; and
- (4) A statement that the outline of coverage is a summary of the policy issued or applied for, and that the policy should be consulted to determine governing contractual provisions.

**§431- Right to return; free look provision.** (a) Individual long-term care insurance policies shall have the right to return the policy within thirty days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason. Individual long-term care insurance policies shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the policyholder shall have the right to return the policy within thirty days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason.

(b) A person insured under a long-term care insurance policy issued pursuant to a direct response shall have the right to return the policy within thirty days of its delivery and to have the premium refunded if, after examination, the insured person is not satisfied for any reason. Long-term care insurance policies issued pursuant to a direct response solicitation shall have a notice prominently printed on the first page or attached thereto stating in substance that the insured person shall have the right to return the policy within thirty days of its delivery and to have the premium refunded if after examination the insured person is not satisfied for any reason.

**§431- Group policy certificate requirements.** A certificate issued pursuant to a group long-term care insurance policy which is delivered or issued for delivery in this State shall include:

- (1) A description of the principal benefits and coverage provided in the policy;
- (2) A statement of the principal exclusions, reductions, and limitations contained in the policy; and
- (3) A statement that the group master policy determines governing contractual provisions.

**§431- Exceptions.** Nothing in sections 431- to 431- shall limit or restrict the sale or offering for sale in this State of insurance which provides long-term care benefits in noninstitutional settings, including a private residence.

**§431- Rules.** The commissioner shall adopt necessary rules under chapter 91 to implement sections 431- to 431- .”

**SECTION 3.** This Act is not intended to supersede the obligations of entities subject to this Act to comply with the substance of other applicable insurance laws insofar as they do not conflict with this Act, except that laws and rules designed and intended to apply to medicare supplement insurance policies shall not be applied to long-term care insurance.

**SECTION 4.** If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 5.** New statutory material is underscored.<sup>1</sup>

**ACT 254**

SECTION 6. This Act shall take effect upon its approval; provided that the requirements of this Act shall be applicable to policies and certificates delivered or issued for delivery on or after the first day of January immediately following the adoption of rules by the insurance commissioner to implement this Act.

(Approved June 24, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 254**

**S.B. NO. 619**

A Bill for an Act Relating to Certification of Private Cesspool Pumping Firms.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The title of Chapter 340B, Hawaii Revised Statutes, is amended to read as follows:

**“[[[CHAPTER 340B]]]  
HAWAII LAW FOR MANDATORY CERTIFICATION  
OF PRIVATE CESSPOOL PUMPING FIRMS  
AND OPERATING PERSONNEL IN  
WASTEWATER TREATMENT PLANTS”**

SECTION 2. Chapter 340B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§340B- **Certification of private cesspool pumping firms.** (a) A private firm must be certified by the board prior to engaging in the activity of cesspool pumping.

(b) To apply for certification to engage in the activity of cesspool pumping a firm must be represented by at least one responsible person meeting standards of competency as required by rules adopted by the board. Competency requirements are to include the applicant’s knowledge of the requirements for proper waste disposal. The applicant shall submit to the board an application for certification in a form approved by the board, which shall include information on the applicant’s prior and current involvement in the activity of cesspool pumping and such information or credentials as may be required by this chapter or the rules adopted by the board, and an application fee. The board shall issue a certificate to an applicant who has satisfied the requirements established by the board.

(c) The board, subject to chapter 91, shall adopt rules as it deems reasonable and proper relating to the activity and certification of cesspool pumping. The rules of the board may prescribe an original registration fee for the engaging by any firm in the activity of cesspool pumping and an annual renewal fee.

(d) Private firms certified pursuant to this section shall provide periodic reports to the board as prescribed by the board. Such reports are to include, but not be limited to, information as to the number of cesspools pumped, their location, and the manner of waste disposal.

(e) This section shall not apply to federal, state or county agencies engaged in the activity of cesspool pumping.

(f) A certificate may be revoked, suspended or refused by the board upon proof to its satisfaction of violation of this chapter or any rule of the board adopted pursuant thereto. Every firm so charged shall be given notice and opportunity for hearing in conformity with chapter 91.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval; provided that no private cesspool pumping firm shall be required to be certified prior to January 1, 1988.

(Approved June 24, 1987.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 255

S.B. NO. 632

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431-291, Hawaii Revised Statutes, is amended to read as follows:

“§431-291 Mortgage loans and contracts. An insurer may invest any of its funds in:

- (1) (A) Bonds or evidences of debt which are secured by first [mortgage] mortgages or [deed] deeds of trust on real property[,] located in the United States[,] or Guam which [meets] meet either of the following requirements:
    - (i) Improved, unencumbered real property; or
    - (ii) Unimproved, unencumbered real property, only where the real property is to be improved, and the bond or evidence of debt is secured by a first mortgage or deed of trust on the real property and the improvement to be made thereon.
  - (B) Chattel mortgages in connection therewith pursuant to section 431-295;
  - (C) The equity of the seller of any such property in the contract for a deed, covering the entire balance due on a bona fide sale of such property, in amount not to exceed \$15,000 or the amount permissible under section 431-283, whichever is greater, in any one such contract for deed, nor in any amount in excess of the following percentages of the actual sale price or fair value of the property, whichever is the smaller:
    - (i) If a dwelling primarily designed for single family occupancy and occupied by the purchaser under such contract, seventy-five per cent.
    - (ii) In all other cases, sixty-six and two-thirds per cent.
- (2) Purchase money mortgages or like securities received by it upon the sale or exchange of real property acquired pursuant to section 431-296.

## ACT 256

- (3) Evidences of debt, secured by mortgage or trust deed guaranteed or insured by an agency of the United States.
- (4) Evidences of debt secured by first mortgages or deeds of trust upon leasehold estates, running for a term of not less than five years beyond the maturity of the loan as made or extended, in improved real property, otherwise unencumbered, and if the mortgagee is entitled to be subrogated to all the rights under the leasehold."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

## ACT 256

S.B. NO. 727

A Bill for an Act Relating to Intoxicating Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-61, Hawaii Revised Statutes, is amended to read as follows:

**"§281-61 Renewals.** Other than for good cause the renewal of an existing license shall be granted upon the filing of an application; provided that if complaints from the public and reports from the commission's inspectors indicate that noise created by patrons departing from the premises disturbs residents on the street or of the neighborhood in which the premises are located, or that noise from the premises or adjacent related outdoor areas such as parking lots or lanais exceed standards contained in state or county noise or vibration codes and intrudes into nearby residential units, the commission may [in its discretion] withhold the issuance of a renewed license until corrective measures meeting the commission's approval are taken."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that this Act shall not affect any rights or duties that matured, penalties that were incurred, or proceedings that were begun before its effective date.

(Approved June 24, 1987.)

## ACT 257

S.B. NO. 787

A Bill for an Act Relating to Assaults of Educational Workers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 707-711, Hawaii Revised Statutes, is amended to read as follows:

**"§707-711 Assault in the second degree.** (1) A person commits the offense of assault in the second degree if:



- (a) The person intentionally or knowingly causes substantial bodily injury to another;
  - (b) The person recklessly causes serious bodily injury to another person;
  - (c) The person intentionally or knowingly causes bodily injury to a correctional worker, as defined in section 710-1031(2), who is engaged in the performance of duty or who is within a correctional facility; [or]
  - (d) The person intentionally or knowingly causes bodily injury with a dangerous instrument[.]; or
  - (e) The person intentionally or knowingly causes bodily injury to an educational worker who is engaged in the performance of duty or who is within an educational facility. For the purposes of this section, "educational worker" means any administrator, specialist, counselor, teacher, or employee of the department of education, or a person who is a volunteer in a school program, activity, or function that is established, sanctioned, or approved by the department of education or a person hired by the department of education<sup>1</sup> on a contractual basis and engaged in carrying out an educational function.
- (2) Assault in the second degree is a class C felony."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

Note

1. So in original.

ACT 258

S.B. NO. 808

A Bill for an Act Relating to No-fault Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** There is a critical need to provide alternative methods of motor vehicle insurance. Auto insurance is mandatory under the State's laws and provides a way to compensate persons suffering personal injury and property damages. However, the motor vehicle insurance requirement is becoming a serious problem due to increasingly high costs and unavailability of auto insurance.

During the Regular Session of 1987, two similar bills S.B. No. 1335 and H.B. No. 1928, were introduced to provide alternative methods of motor vehicle insurance. They both create a motor vehicle insurance fund, which would establish, manage, control, and operate a driver's motor vehicle insurance business under sound actuary practices to reduce motor vehicle insurance, provide easier method of payment, and assure insurance coverage.

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 1987-1988, for the office of the legislative auditor to conduct a study of the feasibility of implementing the provisions of SB No. 808, SB

## ACT 259

No. 1335, and HB No. 1928. The study shall include, but shall not be limited to, the following:

- (1) Assessment of the costs and administration of the motor vehicle insurance fund;
- (2) Establishment and implementation of the fund, including the determination of policy coverage, premiums, collection procedures, claim settlement procedures, and investment procedure;
- (3) Determination of whether the fund would be better administered by the State or by the insurance industry; and
- (4) A discussion of current issues within the insurance industry including, but not limited to, the "take-all-comers" provision in the existing no-fault law, uninsured motorists, and prohibitions against discriminating against insureds on the basis of age and length of driving experience, and an analysis of a motor vehicle insurance fund upon such issues; and
- (5) Any other determinations to effectuate the fund's purposes including the feasibility of placing motorcycles under the provisions of the motor vehicle insurance fund proposal.

The legislative auditor shall submit a report of the findings and recommendations of the study to the legislature no later than twenty days prior to the convening of the Regular Session of 1988.

**SECTION 3.** The sum appropriated shall be expended by the office of the legislative auditor for the purposes of this Act.

**SECTION 4.** This Act shall take effect on July 1, 1987.

(Approved June 24, 1987.)

## ACT 259

S.B. NO. 833

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 431-643, Hawaii Revised Statutes, is amended to read as follows:

**"§431-643 Unfair methods of competition and unfair or deceptive acts or practices defined.** The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

- (1) Misrepresentations and false advertising of insurance policies. Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:
  - (A) Misrepresents the benefits, advantages, conditions, or terms of any insurance policy; or
  - (B) Misrepresents the dividends or share of the surplus to be received on any insurance policy; or
  - (C) Makes any false or misleading statement as to the dividends or share of surplus previously paid on any insurance policy; or
  - (D) Is misleading or is a misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates; or

- (E) Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof; or
  - (F) Is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy; or
  - (G) Is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; or
  - (H) Misrepresents any insurance policy as being shares of stock; or
  - (I) Publishes or advertises the assets of any insurer without publishing or advertising with equal conspicuousness the liabilities of the insurer, both as shown by its last annual statement; or
  - (J) Publishes or advertises the capital of any insurer without stating specifically the amount of paid-in and subscribed capital.
- (2) False information and advertising generally. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.
- (3) Defamation. Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.
- (4) Boycott, coercion, and intimidation:
- (A) Entering into any agreement to commit, or by any action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance; or
  - (B) Entering into any agreement on the condition, agreement, or understanding that a policy will not be issued or renewed unless the prospective insured contracts for another class or an additional policy of the same class of insurance with the same insurer.
- (5) False financial statements:
- (A) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or knowingly causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of a material fact as to the financial condition of an insurer; or

- (B) Knowingly making any false entry of a material fact in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom the insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, knowingly omitting to make a true entry of any material fact pertaining to the business of the insurer in any book, report, or statement of the insurer.
- (6) Stock operations and advisory board contracts. Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.
- (7) Unfair discrimination:
  - (A) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contract; or
  - (B) Making or permitting any unfair discrimination in favor of particular individuals or persons, or between insureds or subjects of insurance having substantially like insuring, risk, and exposure factors, or expense elements, in the term or conditions of any insurance contract, or in the rate or amount of premium charge therefor, or in the benefits payable or in any other rights or privilege accruing thereunder; or
  - (C) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:
    - (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination, or
    - (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate; or
  - (D) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless:
    - (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination, or
    - (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate; or

- (E) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because of the sex or marital status of the individual; however, nothing in this subparagraph shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits; or
  - (F) To terminate, or to modify coverage or to refuse to issue or refuse to renew any property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired; provided that this subparagraph shall not apply to accident and health insurance sold by a casualty insurer; provided further that this subparagraph shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance or renewal of any insurance policy or contract[.]; or
  - (G) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual based solely upon the individual's having taken a human immunodeficiency virus (HIV) test prior to applying for insurance; or
  - (H) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because the individual refuses to consent to the release of information which is confidential as provided in section 325-101; provided that nothing in this subparagraph shall prohibit an insurer from obtaining and using the results of a test satisfying the requirements of the commissioner, which was taken with the consent of an applicant for insurance.
- (8) Rebates. Except as otherwise expressly provided by law:
- (A) Knowingly permitting or offering to make or making any contract of insurance, or agreement as to the contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to the insurance, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or
  - (B) Giving, or selling, or purchasing, or offering to give, sell, or purchase as inducement to the insurance or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.
- (9) Nothing in paragraph (7) or paragraph (8) of this section shall be construed as including within the definition of discrimination or rebates any of the following practices:
- (A) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any bonus

- or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the insurer and its policyholders;
  - (B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;
  - (C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for the policy year;
  - (D) In the case of any contract of insurance, the distribution of savings, earnings, or surplus equitably among a class of policyholders, all in accordance with this chapter.
- (10) Unfair claim settlement practices. Committing or performing with such frequency as to indicate a general business practice any of the following:
- (A) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
  - (B) Failing to respond with reasonable promptness, in no case more than fifteen working days, to communications, whether received from the insurer's policyholder or any other person, or insurer of the other person, who is involved in an accident in which the insurer's policyholder is also involved, with respect to claims arising under its policies;
  - (C) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
  - (D) Refusing to pay claims without conducting a reasonable investigation based upon all available information;
  - (E) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
  - (F) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;
  - (G) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by the insureds;
  - (H) Attempting to settle a claim for less than the amount to which a reasonable person would have believed the person was entitled by reference to written or printed advertising material accompanying or made part of an application;
  - (I) Attempting to settle claims on the basis of an application which was altered without notice, or knowledge or consent of the insured;
  - (J) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;

- (K) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
- (L) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;
- (M) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;
- (N) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

The commissioner shall by certified mail notify the insurer's agent, as designated pursuant to section 431-102, of each complaint filed with the commissioner under this section.

Three or more written complaints received by the commissioner within any twelve-month period charging separate violations of this section shall constitute a rebuttable presumption of a general business practice.

Evidence as to numbers and types of complaints to the insurance commissioner against an insurer, and the insurance commissioner's complaint experience with other insurers writing similar lines of insurance, shall be admissible in an administrative or judicial proceeding brought under this section; provided no insurer shall be deemed in violation of this section solely by reason of the numbers and types of such complaints except as provided in the immediately preceding paragraph and the presumption is not rebutted.

If it is found, after notice and an opportunity to be heard, that an insurer has violated this section, each instance of non-compliance may be treated as a separate violation of this section for the purposes of section 431-17.

- (11) Failure to maintain complaint handling procedures. Failure of any insurer to maintain a complete record of all the complaints which it has received since the date of its last examination under section 431-54. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. For purposes of this paragraph, "complaint" shall mean any written communication primarily expressing a grievance.
- (12) Misrepresentation in insurance applications. Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, or individual."

## ACT 260

SECTION 2. The insurance commissioner shall adopt, pursuant to chapter 91, rules to regulate the use of tests for acquired immune deficiency syndrome (AIDS), and the presence of an antibody to the human immunodeficiency virus (HIV).

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval and shall be repealed two years thereafter.

(Approved June 24, 1987.)

## ACT 260

S.B. NO. 847

A Bill for an Act Relating to Mandatory Sentences for Crimes Committed with a Firearm.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 706-660.1, Hawaii Revised Statutes, is amended to read as follows:

**“[[§]706-660.[1]]<sup>1</sup> Sentence of imprisonment for use of a firearm in a felony.** (a) A person convicted of a felony, where the person had a firearm in his possession [and] or threatened its use or used the firearm while engaged in the commission of the felony, whether the firearm was loaded or not, and whether operable or not, may in addition to the indeterminate term of imprisonment provided for the grade of offenses be sentenced to a mandatory minimum term of imprisonment without possibility of parole or probation the length of which shall be as follows:

- (1) For murder and attempted murder in the second degree—up to fifteen years;
- ~~[(1)]~~ (2) For a class A felony—up to 10 years; and
- ~~[(2)]~~ (3) For a class B felony—up to 5 years[.]; and
- (4) For a class C felony—up to 3 years.

The sentence of imprisonment for a felony involving the use of a firearm as provided in this subsection shall not be subject to the procedure for determining minimum term of imprisonment prescribed under section 706-669, provided further that a person who is imprisoned in a correctional institution as provided in this subsection shall become subject to the parole procedure as prescribed in section 706-670 only upon the expiration of the term of mandatory imprisonment fixed under (a)(1), (2), (3), or (4) [(2)], herein.

(b) A person convicted of a second firearm felony offense as provided in [section] subsection (a), herein, where the person had a firearm in his possession [and] or threatened its use or used the firearm while engaged in the commission of the felony, whether the firearm was loaded or not, and whether operable or not, shall in addition to the indeterminate term of imprisonment provided for the grade of offense be sentenced to a mandatory minimum term of imprisonment without possibility of parole or probation the length of which shall be as follows:

- (1) For murder in the second degree—twenty years;
- ~~[(1)]~~ (2) For a class A felony—[10 years; and] thirteen years, four months;
- ~~[(2)]~~ (3) For a class B felony—[10 years.] six years, eight months; and



(4) For a class C felony—three years, four months.

The sentence of imprisonment for a second felony offense involving the use of a firearm as provided in this subsection shall be exempted from the procedure for determining minimum term of imprisonment prescribed under section 706-669, provided further that a person who is imprisoned in a correctional institution as provided in this subsection shall become subject to the parole procedure as prescribed in section 706-670 only upon the expiration of the term of mandatory imprisonment fixed under (b)(1), (2), (3), or (4) [(2)], herein.

As used in this [subsection,] section, “firearm” has the meaning defined in section 134-1.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

Note

1. So in original.

## ACT 261

S.B. NO. 956

A Bill for an Act Relating to Consumer Commodities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of “consumer commodity” to read as follows:

“(3) “Consumer commodity” means any article, product, good, or agricultural or other commodity of any kind that is customarily produced or distributed for sale through mercantile or retail sales outlets for consumption or use by individuals, including but not limited to food products and consumer packages.”

SECTION 2. Section 486-26.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§486-26.5]]~~ **Misbranding.** (a) No person shall deliver for introduction, hold for introduction or introduce; or keep, offer or expose for sale; or sell [into intrastate commerce,] any consumer commodity which is misrepresented or misbranded in any manner.

(b) The director [shall], pursuant to section 486-9 and chapter 91, shall adopt rules [and regulations] relating to misbranding. The rules may:

- (1) Require any person involved with a specified consumer commodity to keep and make available for inspection or copying by the director adequate records to substantiate the source of the consumer commodity, or in the case of blends, the source of such constituents, as may be required by the director;
- (2) Establish fanciful names or terms, and in the case of blends, minimum constituent content by weight, to be used in labeling to differentiate a specific consumer commodity from an imitation or look-alike; or
- (3) Establish requirements to reconcile the respective volumes of specific consumer commodities received versus the total

**ACT 262**

amounts output, either as whole or processed product or as blends.

In addition, the director may adopt other rules as the director deems necessary for the correct and informative labeling of consumer commodities.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

**ACT 262**

S.B. NO. 957

A Bill for an Act Relating to Home Detention.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 706-624, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) Discretionary conditions. The court may provide, as further conditions of a sentence of probation, to the extent that such conditions are reasonably related to the factors set forth in section 706-606 and to the extent that such conditions involve only such deprivations of liberty or property as are reasonably necessary for the purposes indicated in section 706-606(2), that the defendant:

- (a) Serve a term of imprisonment not exceeding one year in felony cases, and not exceeding six months in misdemeanor cases;
- (b) Perform a specified number of hours of services to the community as described in section 706-605(1)(e);
- (c) Support the defendant’s dependents and meet other family responsibilities;
- (d) Pay a fine imposed pursuant to section 706-605(1)(b);
- (e) Make restitution as specified in section 706-605(1)(d);
- (f) Work conscientiously at suitable employment or pursue conscientiously a course of study or vocational training that will equip the defendant for suitable employment;
- (g) Refrain from engaging in a specified occupation, business, or profession bearing a reasonably direct relationship to the conduct constituting the crime, or engage in such a specified occupation, business, or profession only to a stated degree or under stated circumstances;
- (h) Refrain from frequenting specified kinds of places or from associating unnecessarily with specified persons, including but not limited to, the victim of the crime, any witnesses, regardless of whether they actually testified in the prosecution, law enforcement officers, co-defendants, or other individuals with whom contact may adversely affect the rehabilitation or reformation of the person convicted;
- (i) Refrain from use of alcohol or any use of narcotic drugs or controlled substances without a prescription;
- (j) Refrain from possessing a firearm, destructive device, or other dangerous weapon;

- (k) Undergo available medical, psychiatric, or psychological treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;
- (l) Reside in a specified place or area, or refrain from residing in a specified place or area;
- (m) Submit to periodic urinalysis or other similar testing procedure;
- (n) Satisfy such other reasonable conditions as the court may impose;
- (o) [To refrain] Refrain from entering specified geographical areas without the court's permission[.]; or
- (p) Refrain from leaving the person's dwelling place except to go to and from the person's place of employment, the office of the person's physician or dentist, the probation office, or as may be granted by the person's probation officer pursuant to court order. As used in this paragraph, "dwelling place" includes the person's yard, or in the case of condominiums, the common elements.

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date, provided that this Act shall apply to persons placed on parole or probation after the Act's effective date even though those persons were originally convicted prior to the effective date.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

## ACT 263

S.B. NO. 968

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Finance the Honolii Stream Hydro Project.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare. Mauna Kea Power Company, Inc. is a company formed to build and operate a hydroelectric power plant on the Honolii Stream that qualifies for special purpose revenue bonds pursuant to chapter 39A, part V, Hawaii Revised Statutes.

SECTION 2. The department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in one or more series in a total amount not to exceed \$15,000,000 for the purpose of assisting the Mauna Kea Power Company, a Hawaii corporation, in the construction and operation of a hydroelectric power plant on the Honolii Stream in Hawaii County.

The entire output of such plant shall be made available for use by members of the general public by sale to the HELCO system. The legislature finds and determines that the activity and facilities of the Mauna Kea Power Company constitutes a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

ACT 264

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part V, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

ACT 264

S.B. NO. 993

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 325-4, Hawaii Revised Statutes, is amended to read as follows:

**“§325-4 Identity of patients safeguarded.** Reports to the department of health provided for by this chapter shall not be made public so as to disclose the identity of the persons to whom they relate except [insofar] as [may be] necessary to safeguard the public health against those who disobey the rules [and regulations] relating to these diseases or to secure conformity to the laws of the State.

Reports to the department of health of persons who had or have [had viral hepatitis] diseases or conditions transmittable by blood or blood products may be disclosed by the department to any blood bank to enable it to reject as donors [any individual with such a history.] those individuals, any law to the contrary notwithstanding. In addition, the department may disclose to any blood bank information on persons suspected by physical symptoms, clinical examination, or laboratory evidence of having diseases or conditions transmittable by blood or blood products, any law to the contrary notwithstanding.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

ACT 265

S.B. NO. 994

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 325-1, Hawaii Revised Statutes, is amended to read as follows:

**“§325-1 Diseases or conditions declared [infectious and] communicable[,] or dangerous to public health.** [Cerebro-spinal meningitis, cholera asiatic, conjunctivitis follicular, diphtheria, dysentery amoebic, enteric (or typhoid) fever, fever paratyphoid, Hansen’s disease, measles, dengue, paralysis infantile, pertussis, plague, scarlet fever (or scarlatina), tetanus, trachoma, tuberculosis, typhus fever, varicella, variola, varioloid, yellow fever, are declared to be infectious and communicable diseases dangerous to the

public health, but this enumeration shall not be held to exclude any other disease that is infectious, communicable, or dangerous to the public health, though not specifically named herein.] The director of health by rules adopted pursuant to chapter 91, may declare diseases or conditions to be communicable or dangerous to the public health.”

SECTION 2. Section 325-2, Hawaii Revised Statutes, is amended to read as follows:

**“§325-2 Physicians, laboratory directors, and health care professionals to report.** [Every physician and every chiropractor having a patient infected with any of the diseases enumerated in section 325-1, or any other infectious or communicable or other disease dangerous to the public health, shall give immediate notice thereof to the department of health, or its nearest agent, in writing, and in like manner report to the department, or its agent, every case of death which takes place in the physician’s or chiropractor’s practice from any such disease; provided that whenever a physician has a patient infected with variola, varioloid, scarlet fever, diphtheria, plague, cholera, yellow fever, typhus fever, cerebro-spinal meningitis or amoebic dysentery, the physician, in addition to the notice in writing required to be given as above, shall immediately notify the department or its nearest agent, either by telephone or by direct oral communication.] Every physician or health care professional having a client affected by or suspected of being affected by a disease or condition declared to be communicable or dangerous to the public health by the director of health shall report the incidence or suspected incidence of such disease or condition to the department of health in writing or in the manner specified by the department of health. Every laboratory director having laboratory data regarding an individual affected by or suspected of being affected by a disease or condition declared to be communicable or dangerous to the public health shall report such diseases or conditions to the department of health in writing or in a manner specified by the health department. Every physician, laboratory director, or health care professional who refuses or neglects to give such notice, or make such report, shall be [deemed] guilty of a misdemeanor punishable as provided in section 325-14. In addition, the director of health may assess an administrative fine not to exceed \$1,000 per violation.”

SECTION 3. Section 325-3, Hawaii Revised Statutes, is amended to read as follows:

**“§325-3 Others to report.** [Every householder, keeper of a boarding or lodging house, or master of a vessel, shall report immediately to the department of health, or its nearest agent, any person in or about his house, or vessel, whom he has reason to believe to be sick, or to have died, of any infectious, communicable, or other disease dangerous to the public health; and all police officers who are aware of any person suffering from any infectious, communicable, or other disease dangerous to the public health, shall immediately report the same to the department, or its nearest agent. Any such householder, keeper of a boarding or lodging house, master of a vessel, or police officer who refuses or neglects to so report immediately to the department, or its nearest agent, shall be fined not more than \$100 for each offense.] The director of health shall have the authority to determine which other persons shall report to the department of health communicable diseases or conditions dangerous to the public health. The director of health may assess an administrative fine not to exceed \$1,000 per violation against persons who refuse or neglect to report immediately such diseases or conditions to the department of health. Persons assessed an administrative fine

## ACT 266

under this section shall not be subject to other sanctions provided by this chapter."

SECTION 4. It is the intent of the legislature to appropriate funds to the department of health to perform long-term epidemiologic studies of persons potentially at risk of AIDS in Hawaii. The department of health may designate the funds as necessary for the purchase of services.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$200,000, or so much thereof as may be necessary for fiscal year 1987-1988, and \$200,000, or so much thereof as may be necessary for fiscal year 1988-1989, for epidemiological research on AIDS.

SECTION 6. The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 1987.

(Approved June 24, 1987.)

## ACT 266

S.B. NO. 1749

A Bill for an Act Relating to Traffic Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291-11.6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The passengers of the following motor vehicles shall be exempt from the requirements of this section: emergency[, commercial, for hire,] and mass transit vehicles[, and type I school buses]. Further exemptions from this section may be established by rules adopted by the department of transportation pursuant to chapter 91.

As used in this section, unless the context otherwise requires:

"Emergency vehicle" means an ambulance, a firefighting or rescue vehicle, or a police vehicle while on duty.

"Mass transit vehicle" means a bus, including a school bus (but excluding a charter or sightseeing service bus) with a gross vehicle weight rating that is over 10,000 pounds, whether publicly or privately owned, which provides service to the general public or provides special service on a regular or continuing basis."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

## ACT 267

H.B. NO. 5

A Bill for an Act Relating to the Whistleblowers' Protection Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## “CHAPTER WHISTLEBLOWERS’ PROTECTION ACT

§ -1 **Definitions.** As used in this chapter:

“Employee” means a person who performs a service for wages or other remuneration under a contract for hire, written or oral, express or implied. Employee includes a person employed by the State or a political subdivision of the State.

“Employer” means a person who has one or more employees. Employer includes an agent of an employer or of the State or a political subdivision of the State.

“Person” means an individual, sole proprietorship, partnership, corporation, association, or any other legal entity.

“Public body” means:

- (1) A state officer, employee, agency, department, division, bureau, board, commission, committee, council, authority, or other body in the executive branch of state government;
- (2) An agency, board, commission, committee, council, member, or employee of the legislative branch of the state government;
- (3) A county, city, intercounty, intercity, or regional governing body, a council, special district, or municipal corporation, or a board, department, commission, committee, council, agency, or any member or employee thereof;
- (4) Any other body which is created by state or local authority or which is primarily funded by or through state or local authority, or any member or employee of that body;
- (5) A law enforcement agency or any member or employee of a law enforcement agency; or
- (6) The judiciary and any member or employee of the judiciary.

§ -2 **Discharge of, threats to, or discrimination against employee for reporting violations of law.** An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee’s compensation, terms, conditions, location, or privileges of employment because:

- (1) The employee, or a person acting on behalf of the employee, reports or is about to report to a public body, verbally or in writing, a violation or a suspected violation of a law or rule adopted pursuant to law of this State, a political subdivision of this State, or the United States, unless the employee knows that the report is false; or
- (2) An employee is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action.

§ -3 **Civil actions for injunctive relief or damages.** (a) A person who alleges a violation of this chapter may bring a civil action for appropriate injunctive relief, or actual damages, or both within ninety days after the occurrence of the alleged violation of this chapter.

(b) An action commenced pursuant to subsection (a) may be brought in the circuit court for the circuit where the alleged violation occurred, where the complainant resides, or where the person against whom the civil complaint is filed resides or has a principal place of business.

## ACT 267

(c) As used in subsection (a), "damages" means damages for injury or loss caused by each violation of this chapter, including reasonable attorney fees.

§ -4 Remedies ordered by court. A court, in rendering a judgment in an action brought pursuant to this chapter, shall order, as the court considers appropriate, reinstatement of the employee, payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. A court may also award the complainant all or a portion of the costs of litigation, including reasonable attorney's fees and witness fees, if the court determines that the award is appropriate.

§ -5 Penalties for violations. (a) A person who violates this chapter shall be fined not more than \$500 for each violation.

(b) A civil fine which is ordered pursuant to this chapter shall be deposited with the director of finance to the credit of the general fund of the State.

§ -6 Collective bargaining and confidentiality rights, takes precedence. (a) This chapter shall not be construed to diminish or impair the rights of a person under any collective bargaining agreement, nor to permit disclosures which would diminish or impair the rights of any person to the continued protection of confidentiality of communications where statute or common law provides such protection.

(b) Where a collective bargaining agreement provides an employee rights and remedies superior to the rights and remedies provided herein, contractual rights shall supersede and take precedence over the rights, remedies, and procedures provided in this chapter. Where a collective bargaining agreement provides inferior rights and remedies to those provided in this chapter, the provisions of this chapter shall supersede and take precedence over the rights, remedies, and procedures provided in collective bargaining agreements.

§ -7 Compensation for employee participation in investigation, hearing, or inquiry. This chapter shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing, or inquiry held by a public body in accordance with section -2 of this chapter.

§ -8 Notices of employee protections and obligations. An employer shall post notices and use other appropriate means to keep the employer's employees informed of their protections and obligations under this chapter.

§ -9 Conflict with common law, precedence. The rights created herein shall not be construed to limit the development of the common law nor to preempt the common law rights and remedies on the subject matter of discharges which are contrary to public policy. In the event of a conflict between the terms and provisions of this chapter and any other law on the subject the more beneficial provisions favoring the employee shall prevail."

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 24, 1987.)



A Bill for an Act Relating to Fraudulently Obtained Telecommunications or Cable Television Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 708-800, Hawaii Revised Statutes, is amended by adding new definitions to be appropriately inserted and to read as follows:

“Telecommunication service device” means any mechanical or electronic instrument, apparatus, equipment or device which can be used to obtain telecommunication services without payment of applicable charges therefor. A “telecommunication service device” does not include any telephone or telegraph instrument, equipment, device, facility, or any component thereof furnished by a provider of telecommunication services in the ordinary course of its business.

“Cable television service device” means any mechanical or electronic instrument, apparatus, equipment or device which can be used to obtain cable television services without payment of applicable charges therefor. A “cable television service device” does not include any instrument, apparatus, equipment, device, facility or any component thereof furnished by a cable operator in the ordinary course of its business.

“Telecommunication service” means any service involving (a) the transmission of messages or signals by telephone or telegraph, with the aid of wire, cable, microwave transmissions, fiber optics or other like connections; or (b) the transmission of intelligence by electricity by land, water, or air within the State.

“Cable television service” means one-way transmission of programming provided by, or generally considered comparable to programming provided by, a television broadcast station or other information made available by a cable operator to all subscribers generally.

“Cable operator” means any person who provides cable television service by means of a set of closed transmission paths and associated signal generation, reception, and control equipment designed to deliver such programming to multiple subscribers.

“Distributes” means to sell, transfer, give or deliver to another, or to leave, barter, or exchange with another, or to offer or agree to do the same.”

SECTION 2. Chapter 708, Hawaii Revised Statutes, is amended by adding five new sections to part IV to be appropriately designated and to read as follows:

**“§708- Cable television service fraud in the first degree. (1) A person commits cable television service fraud in the first degree if the person knowingly:**

- (a) Distributes written instructions or plans to make or assemble a cable television service device and knows or has reason to believe that the written plans or instructions are intended to be used to make or assemble a device to obtain cable television service without payment of applicable charges; or
  - (b) Distributes a cable television service device and knows or has reason to believe that the device is intended to be used to obtain cable television service without payment of applicable charges.
- (2) Cable television service fraud in the first degree is a class C felony.

**§708- Cable television service fraud in the second degree.** (1) A person commits the offense of cable television service fraud in the second degree if the person knowingly:

- (a) Possesses a cable television service device with the intent to obtain cable television service without payment of applicable charges; or
- (b) Possesses written instructions or plans to make or assemble a cable television service device with the intent to use the written plans or instructions to make or assemble a device to obtain cable television service without payment of applicable charges.

(2) Cable television service fraud in the second degree is a misdemeanor.

**§708- Telecommunication service fraud in the first degree.** (1) A person commits the offense of telecommunication service fraud in the first degree if the person knowingly:

- (a) Distributes written instructions or plans to make or assemble a telecommunication service device and knows or has reason to believe that the written plans or instructions are intended to be used to make or assemble a device to obtain telecommunication service without payment of applicable charges; or
- (b) Distributes a telecommunication service device and knows or has reason to believe that the device is intended to be used to obtain telecommunication service without payment of applicable charges.

(2) Telecommunication service fraud in the first degree is a class C felony.

**§708- Telecommunication service fraud in the second degree.** (1) A person commits the offense of telecommunication service fraud in the second degree if the person knowingly:

- (a) Possesses a telecommunication service device with the intent to obtain telecommunication service without payment of applicable charges; or
- (b) Possesses written instructions or plans to make or assemble a telecommunication service device with the intent to use the written plans or instructions to make or assemble a device to obtain telecommunication service without payment of applicable charges.

(2) Telecommunication service fraud in the second degree is a misdemeanor.

**§708- Forfeiture of telecommunication service device and cable television service device.** Any telecommunication service device, cable television service device, or instructions or plans therefor, possessed or used in violation of sections 708- to 708- may be ordered forfeited to the State for destruction or other disposition, subject to the requirements of section 701-119."

SECTION 3. Section 275-9, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 269

H.B. NO. 391

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514A-14.5, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[§514A-14.5]]~~ Ownership of parking stalls.** (a) Apartment owners shall have the right to own or have designated parking stalls to be appurtenant to their respective apartments. Where a developer or association of apartment owners owns parking stalls and rents parking stalls to the owners of the apartments, a majority of these apartment owners may request the appointment of an appraiser to establish a price for each parking stall which may then be negotiated for purchase by the respective owners.

(b) The sales contract for any newly constructed apartment after April 29, 1986, shall include ownership of a parking stall or designate a stall to be appurtenant to the apartment as a limited common element.

(c) This section does not apply:

- (1) To apartments developed under chapters 356, 359, and 359G; and
- (2) To apartments in a mixed-use project developed under chapter 206E that has a shared parking program approved by the Hawaii community development authority; provided that such a program shall require the availability of the use of not less than one parking space per apartment.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

## Note

1. So in original.

## ACT 270

H.B. NO. 1025

A Bill for an Act Relating to Health Planning and Resources Development and Health Care Cost Control.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 323D, Hawaii Revised Statutes, is amended by adding two new sections to part II to be appropriately designated and to read as follows:

**“§323D- Information from providers of health insurance.** The state agency may request providers of health insurance doing business in the State to submit to the state agency available statistical, financial, and other reports of information that the state agency finds necessary to perform its functions.

ACT 270

**§323D- Confidentiality of information.** The state agency may adopt rules in accordance with chapter 91 to provide that information submitted to the state agency by providers of health care and health care insurance concerning recipients of health care or health care insurance, or both, shall be confidential.”

SECTION 2. Chapter 323D, Hawaii Revised Statutes, is amended by adding three new sections to part V to be appropriately designated and to read as follows:

**“§323D- Administrative review of certain applications for certificate of need.** The state agency shall adopt rules in conformity with chapter 91 providing for administrative review and decision on certain applications for certificate of need without referring the applications to the subarea council, review panel, or statewide council. Applications subject to administrative review and decision under this section shall include, but are not limited to, applications which are:

- (1) Inconsistent with or contrary to the state health services and facilities plan under section 323D-15;
- (2) Determined not to have a significant impact on the health care system; or
- (3) Involve capital or annual operating expenses below a significant level.

**§323D- Review of certain applications for certificate of need; waiver.** The subarea council, the review panel, and the statewide council may, at their discretion, choose to waive their respective prerogatives of review of any certificate of need application.

**§323D- Monitoring of approved certificates of need.** The state agency may monitor implementation of approved certificates of need granted by the agency.”

SECTION 3. Section 323D-1, Hawaii Revised Statutes, is amended to read as follows:

**“§323D-1 Purpose.** The purpose of this chapter is to establish a health planning and resources development program to [assure the people of the State accessibility to quality health care through the development of health delivery systems.] promote accessibility for all the people of the State to quality health care services at reasonable cost.”

SECTION 4. Section 323D-2, Hawaii Revised Statutes, is amended to read as follows:

1. By amending the definition of “expenditure minimum” to read as follows:

““Expenditure minimum” means [~~\$600,000~~] \$4,000,000 for capital expenditures, [~~\$400,000~~] \$1,000,000 for [replacement of major medical equipment and \$250,000 for] new [major] or replacement medical equipment and \$400,000 for used medical equipment.”

2. By amending the definition of “organized ambulatory health care facility” to read as follows:

““Organized ambulatory health care facility” means a facility not part of a hospital, which is organized and operated to provide health services to outpatients. This term includes the following facilities: clinical health

centers; diagnostic centers; treatment centers; family planning clinics; family health centers; neighborhood health centers; ambulatory surgical facilities [including centers for dental surgery]; cosmetic surgery centers; [dental clinics;] optometric clinics; community mental health and mental retardation centers; outpatient mental health facilities; prenatal or abortion clinics; drug abuse or alcoholism treatment centers; facilities for the provision of outpatient physical therapy services including speech pathology; rehabilitation facilities; any provision of medical or health services by a provider of medical or health services organized as a not-for-profit or business corporation other than a professional corporation; and any provider of [medical or health services which describes itself to the public as a "center", "clinic", or by any name other than the name of one or more of the practitioners providing these services.] non-bed services as defined in the agency's rules of standard categories of health care services. The state agency may adopt rules to establish further criteria for differentiating between the private practice of medicine and organized ambulatory health care facilities."

3. By amending the definition of "substantially modify, decrease, or increase the scope or type of health service" to read as follows:

"Substantially modify, decrease, or increase the scope or type of health service" refers to the establishment of a new health care facility or health care service or the addition of a clinically related (i.e., diagnostic, curative, or rehabilitative) service not previously provided or the termination of such a service which had previously been provided."

4. By deleting the definition of "Secretary".

["Secretary" means the secretary of the United States Department of Health and Human Services, or the secretary of the federal agency that is the successor to the United States Department of Health and Human Services.]"

SECTION 5. Section 323D-12, Hawaii Revised Statutes, is amended to read as follows:

"§323D-12 Health planning and development functions; state agency.

(a) The state agency shall:

- (1) Have as a principal function the responsibility for controlling increases in health care costs. The state agency shall conduct such studies and investigations as may be necessary [in] as to the causes of health care [cost] costs including inflation [and annually shall recommend to the legislature measures designed to contain health care costs until such time as health care cost inflation substantially moderates]. The state agency may contract for services to implement this paragraph. The certificate of need program mandated under part V shall serve this function. The state agency shall promote the sharing of facilities or services by health care providers whenever possible to achieve economies and shall restrict unusual or unusually costly services to individual facilities or providers where appropriate.
- (2) Conduct the health planning activities of the State in coordination with the subarea councils, implement the state health services and facilities plan, and determine the statewide health needs of the State after consulting with the statewide council.
- (3) Prepare and revise as necessary the state health services and facilities plan.
- (4) Prepare, review, and revise the annual implementation plan.
- (5) Assist the statewide council in the performance of its functions.

ACT 270

- (6) Administer the state certificate of need program pursuant to part V.
- (7) Determine the need for new health services proposed to be offered within the State.
- (8) Assess existing health care services and facilities to determine whether there are redundant, excessive, or inappropriate services or facilities and make public findings of any that are found to be so. The state agency shall weigh the costs of the health care services or facilities against the benefits the services or facilities provide and there shall be a negative presumption against marginal services.
- (9) Serve as staff to and provide technical assistance and advice to the statewide council and the subarea councils in the preparation, review, and revision of the state health services and facilities plan.
- (10) Prepare an inventory of the health care facilities, other than federal health care facilities, located in the State and evaluate on an ongoing basis the physical condition of and need for the facilities.
- (11) Provide technical assistance to persons, public or private, in obtaining and filling out the necessary forms for the development of projects and programs.]
- (2) Serve as staff to and provide technical assistance and advice to the statewide council and the subarea councils in the preparation, review, and revision of the state health services and facilities plan.
- (3) Conduct the health planning activities of the State in coordination with the subarea councils, implement the state health services and facilities plan, and determine the statewide health needs of the State after consulting with the statewide council.
- (4) Administer the state certificate of need program pursuant to part V.
- (b) The state agency may:
  - (1) Prepare such reports and recommendations on Hawaii's health care costs and public or private efforts to reduce or control costs and health care quality as it deems necessary. The report may include, but not be limited to, a review of health insurance plans, the availability of various kinds of health insurance and malpractice insurance to consumers, and strategies for increasing competition in the health insurance field.
  - (2) Prepare and revise as necessary the state health services and facilities plan.
  - (3) Prepare, review, and revise the annual implementation plan.
  - (4) Assist the statewide council in the performance of its functions.
  - (5) Determine the need for new health services proposed to be offered within the State.
  - (6) Assess existing health care services and facilities to determine whether there are redundant, excessive, or inappropriate services or facilities and make public findings of any that are found to be so. The state agency shall weigh the costs of the health care services or facilities against the benefits the services or facilities provide and there shall be a negative presumption against marginal services.

- (7) Provide technical assistance to persons, public or private, in obtaining and filling out the necessary forms for the development of projects and programs.
- (8) Prepare reports, studies, and recommendations on emerging health issues, such as medical ethics, health care rationing, involuntary care, care for the indigent, and standards for research and development of biotechnology and genetic engineering.
- (9) Conduct such other activities as are necessary to meet the purposes of this chapter."

SECTION 6. Section 323D-14, Hawaii Revised Statutes, is amended to read as follows:

**"§323D-14 Functions; statewide health coordinating council.** The statewide council shall:

- (1) Prepare and revise as necessary the state health services and facilities plan.
- [(2)] Review applications for planning and medical facilities grants pursuant to applicable federal requirements, and submit a report of its comments to the secretary pursuant to applicable federal requirements.
- (3) (2) Advise the state agency on actions under section 323D-12.
- [(4)] Review annually and recommend approval or disapproval of any state plan and any application and any revision of a state plan or application submitted to the secretary as a condition to the receipt of any funds under allotments made to the State under the Public Health Service Act, the Community Mental Health Centers Act, section 409 of the Drug Abuse Office and Treatment Act of 1972, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 pursuant to the applicable federal requirements.
- (5) (3) Appoint the review panel pursuant to section 323D-42.
- [(6)] (4) Review and comment upon the following actions by the state agency before such actions are made final:
  - (A) The establishment, annual review, and amendment of the annual implementation plan.
  - (B) The development and publication of specific plans and programs for achieving the objectives established in the annual implementation plan.
  - [(C)] The making of grants and contracts from the area health services development fund pursuant to the applicable federal requirements.
  - (D) (C) The making of findings as to [the need for new institutional health services proposed to be offered in the State and] applications for certificate of need.
  - [(E)] (D) The making of findings as to the appropriateness of those institutional and noninstitutional health services offered in the State.
  - [(F)] The approval or disapproval of each proposed use of federal health funds within the State, pursuant to the applicable federal requirements.]"

SECTION 7. Section 323D-17, Hawaii Revised Statutes, is amended to read as follows:

**"§323D-17 Public hearings required.** In the preparation of the state health services and facilities plan or amendments to the state health services

## ACT 270

and facilities plan, the state agency and the statewide council shall conduct a public hearing on the proposed plan or the amendments and shall comply with the provisions for notice of public hearings in chapters 91 and 92[, and with the applicable federal requirements].”

SECTION 8. Section 323D-22, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each subarea health planning council shall review, seek public input, and make recommendations relating to health planning for the geographical subarea it serves. In addition, the subarea health planning councils shall:

- (1) Identify and recommend to the state agency and the council the data needs and special concerns of the respective subareas with respect to the preparation of the state plan.
- (2) Provide specific recommendations to the state agency and the council regarding the highest priorities for health services and resources development.
- (3) Review the state health services and facilities plan and the annual implementation plan as they relate to the respective subareas and make recommendations to the state agency and the council.
- (4) Advise the state agency in the administration of the certificate of need program for their respective subareas.
- [(5) Advise the state agency and the statewide council in the administration of the program to review applications for federal funds pursuant to section [323D-14(4)].
- (6) (5) Advise the state agency on the cost of reimbursable expenses incurred in the performance of their functions for inclusion in the state agency budget.
- [(7) (6) Advise the state agency in the performance of its specific functions.
- [(8) (7) Perform other such functions as agreed upon by the state agency and the respective subarea councils.
- [(9) (8) Each subarea health planning council shall recommend for gubernatorial appointment at least one person from its membership to be on the statewide council.”

SECTION 9. Section 323D-23, Hawaii Revised Statutes, is amended to read as follows:

“§323D-23 Subarea health planning councils, composition, appointment. [Each subarea health planning council shall be constituted in a manner consistent with the applicable federal requirements.] Members of subarea health planning councils shall be appointed by the governor, subject to section 26-34. Nominations for appointment shall be solicited from health-related and other interested organizations, and agencies, including health planning councils, providers of health care within the appropriate subarea, and other interested persons. The members of the subarea health planning councils shall not be compensated for their services but shall be reimbursed for reasonable expenses necessary to the performance of their function.”

SECTION 10. Chapter 323D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:



**“§323D- Disqualification from position or membership.** The chairmen of the statewide council, the subarea health planning councils and the review panel shall not be employed by or married to health care providers.”

SECTION 11. Section 323D-43, Hawaii Revised Statutes, is amended to read as follows:

**“§323D-43 Certificates of need.** (a) No person, public or private, nonprofit or for profit, shall:

- (1) Construct, expand, alter, convert, develop, initiate, or modify a health care facility or health care services in the State which requires a total capital expenditure in excess of the expenditure minimum; or
- (2) Substantially modify, decrease, or increase the scope or type of health service rendered; or
- (3) Increase, decrease, or change the class of usage of the bed complement of a health care facility, or relocate beds from one physical facility or site to another,

unless a certificate of need therefor has first been issued by the state agency.

(b) No certificate of need shall be issued unless the state agency has determined that:

- (1) There is a public need for the facility or the service; and
- (2) The cost of the facility or service will not be unreasonable in the light of the benefits it will provide and its impact on health care costs.

(c) The state agency may adopt criteria for certificate of need review which are consistent with this section. Such criteria may include but are not limited to need, cost, quality, accessibility, availability, and acceptability.

Each decision of the state agency to issue a certificate of need shall, except in an emergency situation that poses a threat to public health, be consistent with the state health services and facilities plan in effect under section 323D-15. Each certificate of need issued shall be valid for a period of one year from the date of issuance unless the period is extended for good cause by the state agency and expenditures for the project shall not exceed the maximum amount of the expenditures approved in the certificate of need.”

SECTION 12. Section 323D-45, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**“(a) Except for an administrative review as provided in section 323D-\_\_\_\_, or in an emergency situation or other unusual circumstances as provided in section 323D-44(c), the state agency shall refer every application for a certificate of need to the appropriate subarea council or councils, the review panel, and the statewide council. The subarea council and the review panel shall consider all relevant data and information submitted by the state agency, subarea councils, other areawide or local bodies, and the applicant, and may request from them additional data and information. The review panel shall consider each application at a public meeting and shall submit its recommendations with findings to the statewide council. The statewide council shall consider the recommendation of the review panel at a public meeting and shall submit its recommendations to the state agency within such time as the state agency prescribes. The statewide council and the review panel may join together to hear or consider simultaneously information related to an application for a certificate of need.”**

## ACT 270

SECTION 13. Section 323D-47, Hawaii Revised Statutes, is amended to read as follows:

**“§323D-47 Request for reconsideration.** The state agency may provide by rules adopted in conformity with chapter 91 for a procedure by which any person may, for good cause shown, request in writing a public hearing before a reconsideration committee for purposes of reconsideration of the agency's decision. The reconsideration committee shall consist of the administrator of the state agency and the chairpersons of the statewide council, the review panel, the plan development committee of the statewide council, and the appropriate subarea health planning council. The administrator shall be the chairperson of the reconsideration committee. A request for a public hearing shall be deemed by the [agency] reconsideration committee to have shown good cause, if [it]:

- (1) [Presents] It presents significant, relevant information not previously considered by the state agency[.];
- (2) [Demonstrates] It demonstrates that there have been significant changes in factors or circumstances relied upon by the state agency in reaching its decision[.];
- (3) [Demonstrates] It demonstrates that the state agency has materially failed to follow its adopted procedures in reaching its decision[, or];
- (4) [Provides] It provides such other bases for a public hearing as the state agency determines constitutes good causes[.]; or
- (5) The decision of the administrator differs from the recommendation of the statewide council.

To be effective a request for such a hearing shall be received within thirty days of the state agency decision. A decision of the [state agency] reconsideration committee following a public hearing under this section shall be considered a decision of the state agency for purposes of section 323D-44.”

SECTION 14. Section 323D-54, Hawaii Revised Statutes, is amended to read as follows:

**“§323D-54 Exemptions from certificate of need requirements.** [(a)] Nothing in this part or rules thereunder with respect to the requirement for certificates of need applies to:

- (1) Offices of physicians, dentists, or other practitioners of the healing arts in private practice as distinguished from organized ambulatory health care facilities, except in any case of purchase or acquisition of equipment attendant to the delivery of health care service and the instruction or supervision therefor for any private office or clinic involving a total expenditure in excess of the expenditure minimum;
- (2) Laboratories, as defined in section 321-11(12), except in any case of purchase or acquisition of equipment attendant to the delivery of health care service and the instruction or supervision therefor for any laboratory involving a total expenditure in excess of the expenditure minimum;
- (3) Dispensaries and first aid stations located within business or industrial establishments and maintained solely for the use of employees; provided such facilities do not regularly provide inpatient or resident beds for patients or employees on a daily twenty-four-hour basis;
- (4) Dispensaries or infirmaries in correctional or educational facilities;

- (5) Dwelling establishments, such as hotels, motels, and rooming or boarding houses that do not regularly provide health care facilities or health care services;
- (6) Any home or institution conducted only for those who, pursuant to the teachings, faith, or belief of any group, depend for healing upon prayer or other spiritual means[.];
- (7) Dental clinics; or
- (8) Other facilities or services which the agency through the state-wide council chooses to exempt, by rules pursuant to section 323D-62.

[(b) The state agency shall adopt rules in conformity with chapter 91 to establish criteria to exempt certain proposed expenditures, health care service changes, or bed changes, by health care facilities which are determined not to have a significant impact on the health care system. The criteria may include but need not be limited to the range of services offered by the facility, the gross annual revenue of the facility, and the annual operating expenses of the service.]”

SECTION 15. Section 323D-45.2, Hawaii Revised Statutes, is repealed.

SECTION 16. Section 323D-55, Hawaii Revised Statutes, is repealed.

SECTION 17. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 18. This Act shall take effect July 1, 1987.

(Approved June 24, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 271**

H.B. NO. 1156

A Bill for an Act Relating to the State Fire Council.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 132-16, Hawaii Revised Statutes, is amended to read as follows:

“**§132-16 State fire council; composition; functions.** (a) There is established a state fire council which shall be placed within the department of labor and industrial relations for administrative purposes. The state fire council shall consist of the fire chiefs of the counties [and the chief of the fire prevention bureau of the city and county of Honolulu shall be ex officio members]. The state fire council [shall] may appoint an advisory committee to assist it in carrying out its functions under this chapter. The advisory committee [shall] may include the heads of the various county building departments, a licensed architect recommended by the Hawaii Society of the American Institute of Architects, a licensed electrical engineer and a licensed mechanical engineer recommended by the Consulting Engineers Council of Hawaii, a representative of the Hawaii Rating Bureau, a representative of the Hawaii firefighters association, and such other members of

## ACT 272

the public as the state fire council may determine can best assist it. The state fire council shall elect a chairman from among its members.

(b) In addition to adopting a state model fire code pursuant to section 132-3, the state fire council shall serve as a focal point through which all applications to the federal government for federal grant assistance for fire-related projects shall be made. The state fire council may advise and assist the county fire departments where appropriate, may prescribe standard procedures and forms relating to inspections, investigations, and reporting of fires, may approve plans for cooperation among the county fire departments, and may advise the governor and the legislature with respect to fire prevention and protection, life safety, and any other functions or activities for which the various county fire departments are generally responsible."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$64,000, or so much thereof as may be necessary for fiscal year 1987-1988, for the operating expenses of the state fire council. The sum appropriated shall be expended by the department of labor and industrial relations for the purposes of this Act.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

## ACT 272

H.B. NO. 1244

A Bill for an Act Relating to Motor Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 437B-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Crash parts" means motor vehicle replacement parts, either sheet metal or plastic, which constitute the visible exterior of the vehicle, including inner and outer panels, and which are repaired or replaced as the result of a collision."

SECTION 2. Section 437B-13, Hawaii Revised Statutes, is amended to read as follows:

"[§437B-13] Invoices; supplying crash parts or used parts; customer's copy. All work done by a motor vehicle repair dealer, mechanic, or apprentice, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts supplied. Service work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for service work and for parts, not including the general excise tax, and shall state separately the tax, if any, applicable to parts and service work. If any crash, used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, crash, rebuilt, or reconditioned parts, the invoice shall clearly state that fact. One copy shall be given to the customer and one copy shall be retained by the motor vehicle repair dealer."

SECTION 3. Section 437B-15, Hawaii Revised Statutes, is amended to read as follows:

**“§437B-15 Estimate for labor and parts. (a)** The motor vehicle repair dealer, mechanic, or apprentice shall give the customer a written estimated price for labor and parts necessary for a specific job prior to commencement of the job. Such written estimated price need not be given if waived in writing by the customer. No charge in excess of fifteen per cent of the estimated price, if the estimated price is less than \$100, or ten per cent of the estimated price, if the estimated price is in excess of \$100, shall be charged for parts and labor supplied in excess of the estimated price, without the prior written or oral consent of the customer. Such consent shall be obtained at some time after it is determined that the estimated price is insufficient and before the labor not estimated is performed or the parts not estimated are supplied. This provision may be waived in writing by the customer, provided that such waiver by its terms shall be effective only after the dealer or mechanic has made reasonable efforts to contact the customer. The form and content of any waiver shall be as prescribed by rule of the board. Nothing in this section shall be construed as requiring a motor vehicle repair dealer, mechanic, or apprentice to give a written estimated price if the dealer, mechanic, or apprentice does not agree to perform the requested service. A reasonable fee may be charged for making the estimate.

**(b)** If any crash parts manufactured by anyone other than the original vehicle equipment manufacturer are to be supplied or installed: (1) the estimate shall state clearly that fact and identify each of those crash parts; and (2) a disclosure document containing the following statement shall be attached to the customer's copy of the estimate:

“Crash parts not manufactured or supplied by the original vehicle equipment manufacturer may or may not be of the same quality as the original vehicle equipment parts.”

**(c)** No motor vehicle repair dealer, mechanic, or apprentice shall use crash parts which are not manufactured or supplied by the original vehicle equipment manufacturer unless the owner of the motor vehicle accepts the use of such parts and signs an agreement stating that the owner accepts the quality of the parts.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on September 1, 1987.

(Approved June 24, 1987.)

## ACT 273

H.B. NO. 1270

A Bill for an Act Relating to Elections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-17, Hawaii Revised Statutes, is amended to read as follows:

**“§11-17 Removal of names from register, when; reregistration. (a)** The clerk, not later than 4:30 p.m. on the sixtieth day after every general election, shall remove the name of any registered voter who did not vote in the election if the person also did not vote in the preceding primary election with the exception of (1) those who voted in the special election for election of

members of the board of trustees of the office of Hawaiian affairs held in conjunction with the general election; or (2) those who submitted written requests for absentee ballots as provided in section 15-4. For this purpose "vote" means the depositing of the ballot in the ballot box whether the ballot is blank or later rejected for any reason. In the case of voting machines "vote" means the voter has activated the proper mechanism and fed the vote into the machine.

The clerk shall [also] remove the name of any person registered to vote in the special election for election of members of the board of trustees of the office of Hawaiian affairs, who did not vote in the special election, did not vote in the general election held in conjunction with the special election, and did not vote in the preceding primary election.

(b) The clerk shall also remove the name of any registered voter, if the clerk, after mailing a notice or other correspondence, properly addressed, with postage prepaid, receives the notice or other correspondence as return mail with a postal notation that the notice or other correspondence was not deliverable because the addressee has moved without leaving a forwarding address. Persons who submit written requests for absentee ballots as provided in section 15-4 are excluded from this subsection.

~~[(b)]~~ (c) Any person whose name has been removed from the register, at any time prior to the closing of the register, as provided in section 11-24, may have that person's name restored in the register by presenting oneself to the clerk and reregistering pursuant to section 11-15, or by making application by mail or otherwise pursuant to procedures established by the clerk. The clerk shall require satisfactory evidence to establish the identity of the applicant. The names of all those persons shall be reentered in the register."

SECTION 2. Section 11-18, Hawaii Revised Statutes, is amended to read as follows:

**"§11-18 Transfer of registration on removal from one precinct to another in same county.** A registered voter who changes residence from one precinct to another prior to any election shall notify the clerk and change the registration to the proper precinct[;] by the appropriate registration deadline; provided that no change of registration shall be allowed or required if the change of residence occurs after the close of registration for an election. The change of registration due to a change of residence may be challenged as provided in section 11-25."

SECTION 3. Section 11-19, Hawaii Revised Statutes, is amended to read as follows:

**"§11-19 Registration from one county to another.** Whenever [any person who has registered as a voter in any county removes to and desires to register in some other county,] a registered voter changes residence from one county to another, the person shall [apply to the clerk of the county in which the person desires to be registered.] notify the clerk and change the registration to the proper county by the appropriate registration deadline; provided that no such change of registration shall be allowed or required if the change of residence occurs after the close of registration for an election. Thereupon such clerk, if the person applying is legally qualified to register, shall accept such registration and shall immediately thereafter forward to the clerk of the county in which the person was formerly registered, a notice that the name of the registered voter is to be removed from the general county register of that county."

SECTION 4. Section 11-21, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) No person shall be prevented from voting at the election in the precinct in which the person’s name appears on the voters list due to a change of name, change of registration, or other correction made under this section[.] except those who failed to reregister pursuant to section 11-18 or 11-19. However, any voter registered in the wrong precinct who shall refuse to make the correction of registration may be challenged in accordance with section 11-25.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

## ACT 274

H.B. NO. 1525

A Bill for an Act Relating to Restraint of Trade; Monopolies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 480-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

“Class action” includes the definition as provided in rule 23 of the Hawaii rules of civil procedure.

“Consumer” means a natural person who, primarily for personal, family, or household purposes, purchases, attempts to purchase, or is solicited to purchase goods or services or who commits money, property, or services in an investment.

“De facto class action” means an action that has not been certified by the court but includes identical considerations as provided in Hawaii rules of civil procedure rule 23 such as common questions of law or fact, claims or defenses of the representative parties are typical of the claims or defenses of non-parties and, as a practical matter, the disposition of the interest of the class or other members not parties to the adjudications would substantially impair or impede their ability to protect their interest.”

SECTION 2. Section 480-2, Hawaii Revised Statutes, is amended to read as follows:

“**§480-2 Unfair competition, practices, declared unlawful.** (a) Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful.

(b) In construing this section, the courts and the office or<sup>1</sup> consumer protection shall be guided by the rules, regulations, and decisions of the Federal Trade Commission and the federal courts interpreting section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)), as from time to time amended.

(c) No showing that the proceeding or suit would be in the public interest (as these terms are interpreted under section 5(b) of the Federal Trade Commission Act) is necessary in any action brought under this section.

(d) No person other than a consumer, the attorney general or the director of the office of consumer protection may bring an action based upon unfair or deceptive acts or practices declared unlawful by this section.

SECTION 3. Section 480-3, Hawaii Revised Statutes is amended to read as follows:

“§480-3 Interpretation. This chapter shall be construed in accordance with judicial interpretations of similar federal antitrust statutes[.], except that lawsuits by indirect purchasers may be brought as provided in this chapter.”

SECTION 4. Section 480-13, Hawaii Revised Statutes, is amended to read as follows:

“§480-13 Suits by persons injured; amount of recovery, injunctions. (a) Except as provided in subsections (b) and (c), [Any] any person who is injured in the person’s business or property by reason of anything forbidden or declared unlawful by this chapter:

- (1) May sue for damages sustained by the person, and, if the judgment is for the plaintiff, the plaintiff shall be awarded a sum not less than \$1,000 or threefold damages by the plaintiff sustained, whichever sum is the greater, and reasonable attorneys fees together with the costs of suit; provided that indirect purchasers injured by an illegal overcharge shall recover only compensatory damages, and reasonable attorneys fees together with the costs of suit; [no showing that the proceeding or suit would be in the public interest (as these terms are interpreted under section 5(b) of the Federal Trade Commission Act) is necessary when the party against whom the proceeding or suit is brought is a merchant as that term is defined in chapter 490;] and
- (2) May bring proceedings to enjoin the unlawful practices, and if the decree is for the plaintiff, the plaintiff shall be awarded reasonable attorneys fees together with the cost of suit.

(b) Any consumer who is injured by any unfair or deceptive act or practice forbidden or declared unlawful by section 480-2:

- (1) May sue for damages sustained by the consumer, and, if the judgment is for the plaintiff, the plaintiff shall be awarded a sum not less than \$1,000 or threefold damages by the plaintiff sustained, whichever sum is the greater, and reasonable attorneys fees together with the costs of suit; and
- (2) May bring proceedings to enjoin the unlawful practices, and if the decree is for the plaintiff, the plaintiff shall be awarded reasonable attorneys fees together with the cost of suit.

(c) The remedies provided in subsections (a) and (b)<sup>1</sup> shall be applied in class action and de facto class action lawsuits or proceedings including actions brought in behalf of direct purchasers, and<sup>1</sup> actions brought in behalf of<sup>1</sup> indirect purchasers by the attorney general under section 480-14, [so that] provided that:<sup>1</sup>

- (1) The minimum \$1,000 [amount] recovery provided in subsections (a) and (b) shall not apply<sup>1</sup> in a class action or a de facto class action lawsuit;<sup>1</sup>
- (2) In class actions or de facto class actions where both direct and indirect purchasers are involved,<sup>1</sup> or where more than one class of indirect purchasers are involved, a defendant shall be entitled to prove as a partial or complete defense to a claim for<sup>1</sup> compensatory damages that the<sup>1</sup> illegal overcharge has been passed on or



passed back to others who are themselves entitled to recover so as to avoid the duplication of recovery of compensatory damages;

- (3) That portion of threefold damages in excess of compensatory damages shall be apportioned and allocated by the court in its exercise of discretion so as to promote effective enforcement of this chapter and deterrence from violation of its provisions;
- (4) In no event shall an indirect purchaser be awarded less than the full measure of compensatory damages attributable to the indirect purchaser;
- (5) In any [case] lawsuit or lawsuits in which claims are asserted by both direct purchasers and [in behalf of] indirect purchasers, the court is authorized to exercise its discretion in the apportionment of damages, and in the transfer[s] and consolidation of cases to avoid the duplication of the recovery of damages and the multiplicity of suits, and in other respects to obtain substantial fairness;
- (6) In any case in which claims are being asserted by a part of the claimants in a court of this State and another part of the claimants in a court other than of this State, where the claims arise out of same or overlapping transaction or transactions, the court is authorized to take all steps reasonable and necessary to avoid duplication of recovery of damages and multiplicity of suits, and in other respects, to obtain substantial fairness;
- (7) In instances where the attorney general representing indirect purchasers files an action and obtains a judgment or settlement prior to the completion of a direct purchaser's action in courts other than this State, the court shall delay disbursement of the damages until such time as the direct purchaser's suits are resolved to either final judgment, consent decree or settlement, or in the absence of a direct purchaser's lawsuit in the courts other than this State by direct purchasers, the expiration of the statute of limitations, or in such manner that will minimize duplication of damages to the extent reasonable and practicable, avoid multiplicity of suit and obtain substantial fairness; and
- (8) In the event damages obtained by the attorney general in a class action or de facto class action remain unclaimed by the direct or indirect purchasers, the attorney general shall apply to the court and such funds shall escheat to the State upon showing that reasonable efforts made by the State to distribute the [same] funds have been unsuccessful.

[(b)] (d) The remedies provided in this section are cumulative and may be brought<sup>1</sup> in one action."

SECTION 5. Section 480-14, Hawaii Revised Statutes is amended to read as follows:

**"§480-14 Suits by the State; amount of recovery.** (a) Whenever the State, any county, or city and county is injured in its business or property by reason of anything forbidden or declared unlawful by this chapter, it may sue to recover threefold the action<sup>1</sup> damages sustained by it.

(b) The attorney general may bring an action on behalf of the State or any of its political subdivisions or governmental agencies to recover the damages provided for by this section, or by any comparable provisions of federal law.

## ACT 275

[(c) This chapter shall not be construed to deny the right to sue for any damages to any person by reason of such person's status as indirect purchaser injured by illegal overcharge.]

[(d)] (c) No person other than the attorney general of the State shall be authorized to bring a class action [in any court of this State] for indirect purchasers asserting claims under this chapter and the attorney general or the director of the office of consumer protection may bring a class action on behalf of consumers based on unfair or deceptive acts or practices declared unlawful by section 480-2. Such actions shall be brought as parens patriae on behalf of natural persons residing in this<sup>1</sup> State, to secure [monetary relief as provided in this section] compensatory damages for injuries sustained by such natural persons to their property by reason of any violation of this chapter.

[(e)] (d) If judgment is in favor of the State or any of its political subdivisions or governmental agencies under any provisions<sup>1</sup> of this chapter, the attorney general shall be awarded reasonable attorney's fees together with the cost of suit; provided further that in any class action lawsuit brought by the attorney general in behalf of indirect purchasers, the attorney general shall in addition be awarded an amount commensurate with expenses reasonably expected to be expended in distribution of damages of<sup>1</sup> the indirect purchasers."

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

### Note

1. So in original.

## ACT 275

H.B. NO. 1530

A Bill for an Act Relating to Mortgages.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 506-1, Hawaii Revised Statutes, is amended to read as follows:

**"§506-1 Lien of mortgages of real property or fixtures; debts secured; priority.** (a) Every transfer of an interest in real property or fixtures made as security for the performance of another act or subject to defeasance upon the payment of an obligation, whether the transfer is made in trust or otherwise, is to be deemed a mortgage and shall create a lien only as security for the obligation and shall not be deemed to pass title.

(b) A mortgage may secure the repayment of past debt, a debt incurred at the time the mortgage is executed, or a debt incurred for advances which may be made by the mortgagee subsequent to the execution of the mortgage even though the mortgagee is under no contractual duty to make

[such] these advances. Except as otherwise provided in section 490:9-313 of the Uniform Commercial Code with respect to security interests in fixtures, a mortgage which secures future advances [shall], up to but not exceeding the maximum amount of future advances stated in the mortgage, shall be superior to any subsequently recorded mortgage, lien or other encumbrances or conveyance, other than liens for real property taxes and assessments for public improvements, even though [such] the subsequently recorded mortgage, lien or other encumbrance or conveyance is recorded prior to the date upon which any advance or advances have been made.”

SECTION 2. Chapter 403, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§403- Mortgage insurance; opportunity to accept or decline. (a) A financial institution that provides a mortgagor with mortgage life insurance which is not a condition of obtaining the mortgage, without charge and for a period that is equal to or less than the term of the mortgage, shall send each insured mortgagor, no later than four weeks prior to the expiration of the period during which the insurance is provided without charge (the “free-period”), a form with a designated “yes” or “no” space in which the insured mortgagor may indicate a desire to continue or discontinue the mortgage life insurance after the free-period has ended. The form shall clearly indicate the amount of the premium to be charged to continue the mortgage life insurance and shall also provide a space for the mortgagor’s signature and the date of signing.

(b) Failure to provide the form as specified under this section shall result in the automatic termination of the mortgage life insurance policy upon the expiration of the free-period, unless the mortgagor indicates otherwise in writing to the financial institution.

(c) For the purposes of this section, “mortgage life insurance” means an insurance plan which will pay off the mortgage balance in the event of the death or, as the case may be, disability of the insured mortgagor.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 276**

H.B. NO. 1861

A Bill for an Act Relating to Real Estate.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 467-30, Hawaii Revised Statutes, is amended to read as follows:

“**[§467-30]** Licenses and bonding required to operate condominium hotel. (a) As used in this section, “condominium hotel” includes those

## ACT 276

apartments in a project as defined in section 514A-3 and subject to chapter 514A, providing for customary hotel services including, but not limited to, front desk, restaurant, daily maid and linen service, bell service, or telephone switchboard.

(b) Any sole proprietor, partnership, corporation, or other business entity who, in the operation of a condominium hotel engages in any activity set forth in the definitions of "real estate", "real estate broker", and "real estate salesman" in section 467-1 and who also is not a custodian or caretaker shall [obtain]:

- (1) Obtain a license as a real estate broker in compliance with this chapter and the rules of the commission, and [shall]
- (2) Register as a condominium operator and provide evidence of bonding to the real estate commission in an amount equal to \$500 multiplied by the aggregate number of units covered by all of the [broker's] condominium hotel contracts; except that the minimum of the bond required by this [subsection] paragraph shall not be less than \$20,000 nor greater than \$100,000. The bond shall protect the owners of the apartment<sup>1</sup> whose apartments are used to provide customary hotel services.

(c) Neither a real estate broker license nor a salesperson license shall be required of those employees of any sole proprietor, partnership, corporation, or other business entity performing or facilitating the delivery of customary hotel services as described in this section."

SECTION 2. Section 514E-6, Hawaii Revised Statutes, is amended to read as follows:

**"[[§514E-6]] Time sharing in projects.** (a) If the project in which the time share unit or time share plan is to be created contains an existing time share unit or time share plan, then time share units and plans<sup>1</sup> be regulated according to the terms of the project instruments.

(b) If the project in which the time share unit or time share plan is to be created is not a hotel and does not contain time share units or a time share plan, then such use may be created only if such use is explicitly and prominently authorized by the project instruments, or the project instruments are amended by unanimous vote of the unit owners to explicitly and prominently authorize time sharing.

**(c) Any condominium project in an area not designated for hotel use, resort use, or transient vacation rentals that:**

- (1) Contains one or more transient vacation rental units may be classified as a hotel use; or
- (2) Contains more than ninety-five per cent transient vacation rental units shall be classified as a hotel.

**The foregoing shall not limit the individual counties in zoning for or defining hotels.**"

SECTION 3.<sup>2</sup> Section 467-30(b)(1), as provided for in section 1 of this Act, shall be suspended for one year from the effective date of this Act.

SECTION 4.<sup>2</sup> Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5.<sup>2</sup> This Act shall take effect upon its approval.

(Approved June 24, 1987.)

### Notes

1. So in original.

2. Section designations renumbered.

## ACT 277

S.B. NO. 24

A Bill for an Act Relating to Condominium Bylaws.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to identify those elements of condominium bylaws which shall have retrospective application and those which shall have prospective application.

SECTION 2. Section 514A-82, Hawaii Revised Statutes, is amended to read as follows:

**“§514A-82 Contents of bylaws. (a)** The bylaws shall provide for at least the following:

(1) Board of directors:

(A) The election of a board of directors;

(B) The number of persons constituting the board; provided that condominiums with more than one hundred individual apartment units shall have an elected board of not less than nine members unless not less than seventy-five per cent of all apartment owners vote by mail ballot, or at a special or annual meeting, to reduce the minimum number of directors;

(C) That for the initial term of office, directors shall serve for a term of three years or the term as specified by the bylaws or until their successors have been elected or appointed;

(D) The powers and duties of the board;

(E) The compensation, if any, of the directors; and

[(F) The method of removal from office of directors; that at any regular or special meeting of the apartment owners, any one or more members of the board of directors may be removed with or without cause by a majority of the apartment owners and a successor shall then and there be elected for the remainder of the term to fill the vacancy thus created. If such removal and replacement is to occur at a special association meeting, the call for such meeting shall be by the president or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the apartment owners; and provided further that if the secretary or managing agent does not send out the notices for the special meeting within fourteen days of receipt of the petition, the petitioners shall send out the notices for the special meeting. Except as otherwise provided herein, such meeting and the procedures adopted for the removal and replacement from office of directors shall be conducted in accordance with the bylaws of the association pertaining to the removal, replacement, and election of directors; and

(G)] (F) Whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this

chapter or otherwise may be delegated by the board to either or both of them.

- (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; what percentage is, consistent with this chapter, necessary to adopt decisions binding on all apartment owners and that votes allocated to any area which constitutes a common element under section 514A-13(h) shall not be cast at any association meeting, whether or not it is so designated in the declaration.
- (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners.
- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.
- (5) Election of a treasurer who shall keep the financial records and books of account.
- (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges.
- (7) Manner of collecting common expenses, expenses, costs, and fees recoverable by the association under section 514A-94, and any penalties and late charges.
- (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements.
- (9) Method of adopting and amending administrative rules and regulations governing the details of the operation and use of the common elements.
- (10) Such restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners.
- [(11) The bylaws may be amended at any time by the vote or written consent of not less than sixty-five per cent of all apartment owners; provided that each one of the particulars set forth in this section shall always be embodied in the bylaws; and provided further that proposed bylaws with the rationale for the proposal may be submitted by the board of directors or by a volunteer apartment owners' committee. If submitted by such a committee, it shall be accompanied by a petition signed by not less than twenty-five per cent of the apartment owners. The proposed bylaws, rationale, and ballots for voting on the proposed bylaws shall be mailed to the owners for approval without change within fourteen days of the receipt of the petition by the board of directors. Failure of the board of directors to comply with these provisions shall validate the vote taken by the volunteer apartment owners' committee provided the volunteer owners' committee has complied with all other applicable rules on voting for bylaw amendments.
- (12)] (11) The first meeting of the association of apartment owners shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold and recorded at the end of one year,

an annual meeting shall be called; provided ten per cent of the apartment owners so request.

- [(13)] (12) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose. There shall not be more than one representative on the board of directors from any one apartment.
- [(14)] (13) A director shall not cast any proxy vote at any board meeting, nor shall a director vote at any board meeting on any issue in which the director has a conflict of interest.
- [(15)] (14) No resident manager of a condominium shall serve on its board of directors.
- [(16)] (15) The board of directors shall meet at least once a year.
- [(17)] Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to the meeting, and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the association, if any.
- (18) No resident manager, or managing agent shall solicit, for use by such manager or managing agent, any proxies from any apartment owner of the association of owners which employs the resident manager or managing agent, nor shall the resident manager or managing agent cast any proxy vote at any association meeting except for the purpose of establishing a quorum. No member of a board of directors who uses association funds to solicit proxies shall cast any of these proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors and the board first posts notice of its intent to solicit proxies in prominent locations within the project at least thirty days prior to its solicitation of proxies; provided that if the board receives within seven days of the posted notice a request by any owner for use of association funds to solicit proxies accompanied by a statement, the board shall:
- (A) Mail to all owners a proxy form containing either the names of all owners who have requested the use of association funds for soliciting proxies accompanied by their statements; or
  - (B) Mail to all owners a proxy form containing no names, but accompanied by a list of names of all owners who have requested the use of association funds for soliciting proxies and their statements.
- The statement shall not exceed one hundred words, indicating the owner's qualifications to serve on the board and reasons for wanting to receive proxies.
- [(19)] (16) All association and board of directors meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order.
- [(20)] (17) All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors.

- [(21) Notice of the annual board meeting shall be given in a reasonable manner at least fourteen days, if practicable, prior to the meeting.
- (22)] (18) Penalties chargeable against persons for violation of the covenants, conditions, or restrictions set forth in the declaration, or of the bylaws and administrative rules adopted pursuant thereto, method of determination of violations, and manner of enforcing such penalties, if any.

(b) In addition to the requirements of subsection (a) the bylaws shall provide for:

- (1) The method of removal from office of directors; that at any regular or special meeting of the apartment owners, any one or more members of the board of directors may be removed by the apartment owners and successors shall then and there be elected for the remainder of the term to fill the vacancies thus created. Such removal and replacement shall be in accordance with all applicable requirements and procedures in the bylaws for the removal and replacement of directors, including, but not limited to, any provisions relating to cumulative voting. If such removal and replacement is to occur at a special association meeting, the call for such meeting shall be by the president or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the apartment owners as shown in the association's record of ownership; and provided further that if the secretary or managing agent shall fail to send out the notices for the special meeting within fourteen days of receipt of the petition, then the petitioners shall have the authority to set the time, date and place for the special meeting and to send out the notices for the special meeting in accordance with the requirements of the bylaws. Except as otherwise provided herein, such meeting for the removal and replacement from office of directors shall be scheduled, noticed, and conducted in accordance with the bylaws of the association.
- (2) The bylaws may be amended at any time by the vote or written consent of sixty-five per cent of all apartment owners; provided that each one of the particulars set forth in this section shall be embodied in the bylaws always; and provided further that any proposed bylaws with the rationale for the proposal may be submitted by the board of directors or by a volunteer apartment owners' committee. If submitted by that committee, it shall be accompanied by a petition signed by not less than twenty-five per cent of the apartment owners as shown in the association's record of ownership. The proposed bylaws, rationale, and ballots for voting on any proposed bylaw shall be mailed by the board of directors to the owners at the expense of the association for vote or written consent without change within thirty days of the receipt of the petition by the board of directors. The vote or written consent required to adopt the proposed bylaw shall not be less than sixty-five per cent of all apartment owners; provided that the vote or written consent must be obtained within one hundred twenty days after mailing. In the event that the bylaw is duly adopted, then the board shall cause the bylaw amendment to be recorded in the bureau of conveyances or filed in the land court, as the case may be. The volunteer apartment owners' committee shall be precluded from submitting a petition for a



proposed bylaw which is substantially similar to that which has been previously mailed to the owners within one year after the original petition was submitted to the board. This subsection shall not preclude any apartment owner or voluntary apartment owners' committee from proposing any bylaw amendment at any annual association meeting.

- (3) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to the meeting, and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the association, if any; and
- (4) No resident manager, or managing agent shall solicit, for use by the manager or managing agent, any proxies from any apartment owner of the association of owners which employs the resident manager or managing agent, nor shall the resident manager or managing agent cast any proxy vote at any association meeting except for the purpose of establishing a quorum. No member of a board of directors who uses association funds to solicit proxies shall cast any of these proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors and the board first posts notice of its intent to solicit proxies in prominent locations within the project at least thirty days prior to its solicitation of proxies; provided that if the board receives within seven days of the posted notice a request by any owner for use of association funds to solicit proxies accompanied by a statement, the board shall:
- (A) Mail to all owners a proxy form containing either the names of all owners who have requested the use of association funds for soliciting proxies accompanied by their statements; or
- (B) Mail to all owners a proxy form containing no names, but accompanied by a list of names of all owners who have requested the use of association funds for soliciting proxies and their statements.

The statement shall not exceed one hundred words, indicating the owner's qualifications to serve on the board and reasons for wanting to receive proxies.

The provision of this subsection (b) shall be deemed incorporated into the bylaws of all condominium projects existing as of January 1, 1988, and all condominium projects created after that date."

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

A Bill for an Act Relating to Adoptions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The provision in the law relating to adoptions providing for the change of the family name of an adoptive minor child presently requires that the adopted child take the name of the adoptive parent or parents. Hence, in the case of a step-child adoption, the adopted child is required to take the family name of the adoptive parent even if the child's natural parent has a different name. The purpose of this Act is to allow adopted children to take the family name of either the adoptive parent or the natural parent.

SECTION 2. Section 587-13<sup>1</sup>, Hawaii Revised Statutes, is amended to read as follows:

**“§578-13 Change of name.** [The family name of an adoptive minor child shall be changed to that of the adoptive parent or parents and the given name of the minor child may be fixed or changed at the same time. The family name of an adopted individual who is an adult at the time of the filing of the petition for adoption may be changed to that of the adoptive parent or parents and the given name of the adult may be fixed or changed at the same time.] The court may fix or change the given name and the family name of an adoptive minor child to the name stipulated by the adoptive parents or that name which is in the best interest of the child.

The court may fix or change the given name and family name of an adoptive individual who is an adult at the time of the filing of the petition for adoption to the name stipulated by the adoptive parents or that name which is in the best interest of the adult.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

**Note**

1. So in original.

A Bill for an Act Relating to Motor Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-52, Hawaii Revised Statutes, is amended by amending subsections (k) and (l) to read as follows:

**“(k) Whenever the registered owner of any motor vehicle or any licensed dealer has given notice to the director of finance of a transfer of the title or interest in the motor vehicle, as provided in subsection (i) or (j) [of this section], and has delivered the certificate of ownership bearing the transferor's signature to the transferee as required by subsection (a) [of this section], the transferor shall be relieved from any liability, civil or criminal, from the date the transferor delivers the motor vehicle into the transferee's**

possession, which the transferor might otherwise subsequently incur by reason [only] solely of being the registered owner of the vehicle.

(1) A licensed dealer who has forwarded a properly indorsed certificate of ownership and certificate of registration to the director of finance shall be relieved of any civil liability, from the date the transferor delivers the motor vehicle into the transferee's possession, which the transferor might otherwise subsequently incur by reason solely of being the registered owner of the vehicle; provided that a specific written authorization to forward the certificates has been obtained from the transferee."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

## ACT 280

S.B. NO. 341

A Bill for an Act Relating to the Uniform Commercial Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 490:4-213, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

"(4) Subject to any right of the bank to apply the credit to an obligation of the customer, credit given by a bank for an item in an account with its customer becomes available for withdrawal as of right:

- (a) In any case where the bank has received a provisional settlement for the item, - when such settlement becomes final and the bank has had a reasonable time to learn that the settlement is final;
- (b) In any case where the bank is both a depository bank and a payor bank and the item is finally paid, - at the opening of the bank's second banking day following receipt of the item.

Each depository bank [or payor] shall[, upon request,] provide written notice of its check hold policy[.] and fund availability with respect to local, out-of-state, and foreign checks drawn on U.S. financial institutions:

- (i) When a checking account is opened; or
- (ii) When there is a change in bank policy.

The commissioner of financial institutions may establish by rules reasonable periods for check hold and fund availability with respect to local, out-of-state, and foreign checks drawn on U.S. financial institutions.

[For purposes of this subsection "payor" means any entity by which an item is payable as drawn or accepted, and includes savings and loan associations and credit unions.]"

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

A Bill for an Act Relating to Naturopathy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)
- [(7) Chapter 455 (Board of Examiners in Naturopathy)]

(b) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 468K (Travel Agencies)
- (4) Chapter 373 (Commercial Employment Agencies)
- (5) Chapter 442 (Board of Chiropractic Examiners)
- (6) Chapter 448 (Board of Dental Examiners)
- (7) Chapter 436E (Board of Acupuncture)

(c) The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 439 (Board of Cosmetology)
- (7) Chapter 454 (Mortgage Brokers and Solicitors)
- (8) Chapter 454D (Mortgage and Collection Servicing Agents)

(d) The following chapters are hereby repealed effective December 31, 1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 462A (Pilotage)
- (6) Chapter 438 (Board of Barbers)

(e) The following chapters are hereby repealed effective December 31, 1991:

- (1) Chapter 448H (Elevator Mechanics Licensing Board)
- (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (4) Chapter 460 (Board of Osteopathic Examiners)
- (5) Chapter 461 (Board of Pharmacy)
- (6) Chapter 461J (Board of Physical Therapy)
- (7) Chapter 463E (Podiatry)

1992: (f) The following chapters are hereby repealed effective December 31,

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)[.]

1993: (g) The following chapter is hereby repealed effective December 31,

- (1) Chapter 455 (Board of Examiners in Naturopathy)."

SECTION 2. Chapter 455, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "naturopathy" in section 455-1 to read:

"Naturopathy" means the practice of natural medicine, natural therapeutics, and natural procedures, for the purpose of removing toxic conditions from the body and improving the quality, quantity, harmony, balance, and flow of the vital fluids, vital tissues, and vital energy; and the practice of diagnosing, treating, and caring for patients using a system of practice that bases its treatment of physiological functions and abnormal conditions on natural laws governing the human body: utilizing physiological, psychological, and mechanical methods, such as air, water, light, sunshine, heat[,] and cold, earth, phytotherapy, physiotherapy, mechano-therapy, naturopathic corrections and manipulation, and natural methods or modalities, together with natural or homeopathic medicines, natural [processed] foods, and herbs, and nature's remedies. The practice of naturopathy excludes surgery, application of x-rays, and the prescribing or dispensing of prescription drugs."

2. By amending section 455-2 to read:

"**§455-2 Application for examination; fee.** Any person desiring to practice naturopathy shall apply in writing to the board upon a form prepared and furnished by the board and shall include in the application any facts concerning the applicant as the board shall require. At the time of the application each applicant shall pay an examination fee to the department. [If the board contracts with a professional testing agency to prepare, administer, and grade the examination, the payment of the] The examination fee may be paid directly to the testing agency by the department or the examinee. The examination fee shall not be refunded if the applicant fails to pass the examination.

No person shall be licensed to practice naturopathy unless the person has been duly examined and has passed the examination."

3. By amending section 455-3 to read:

"**§455-3 Qualifications of applicants.** Each applicant shall be a graduate of a school, university, or college of naturopathy which has received candidacy status with, or has been accredited by, a regional accrediting association of secondary schools and colleges or has been accredited by a national professional accrediting body approved by the board or the Commission on Accreditation of the Council of Naturopathic Medical Education, incorporated in Washington, D.C.; provided that after January 1, 1990, such school, university, or college shall have been accredited by a professional accrediting agency recognized by the U.S. Department of Education."

4. By amending section 455-6 to read:

“§455-6 Powers and authority of the board. The board may:

- (1) Adopt and use a seal to be affixed to all official acts of the board;
- (2) Adopt, amend, or repeal rules in accordance with chapter 91 to carry out the purposes of this chapter;
- (3) Develop standards for licensure;
- [(4)] Prepare and administer examinations;
- (5) Issue, renew, suspend, and revoke licenses and fine licensees;
- [(6)] (5) Investigate and conduct hearings regarding any violation of this chapter and any rules of the board;
- [(7)] (6) Maintain a record of its proceedings; and
- [(8)] (7) Do all things necessary to carry out the functions, powers, and duties set forth in this chapter.”

5. By amending section 455-7 to read:

“§455-7 Examinations. The board shall conduct examinations not less than twice in each year [in the following subjects: anatomy; histology and embryology; chemistry and toxicology; physiology; bacteriology; hygiene and sanitation; pathology; diagnosis or analysis, including clinical, physical, x-ray, symptomatology, dermatology, and mental diseases; naturopathic theory and practice; obstetrics and gynecology; jurisprudence; clinical practice; biochemistry; therapeutics, including physiotherapy, hydrotherapy, electrotherapy, heliotherapy, phytotherapy, orthopedics; and such other] on subjects as the board may require. If the applicant receives a [minimum score of seventy-five per cent on each part of the] converted score of seventy-five on the entire examination, the applicant shall be considered as having passed the examination. The board shall contract with a professional testing agency to prepare, administer, and grade examinations for licensure. Each applicant shall pass a written examination [by the board or an examination prepared] that has been developed, validated, and tested for reliability by a professional testing agency selected by the board[,] that is able to demonstrate the validity and reliability of the examination. The board shall provide in its rules the passing scores for any examination given or approved by the board.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 521-44, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) At the termination of a rental agreement in which the landlord required and received a security deposit if the landlord proposes to retain any amount of the security deposit for any of the purposes specified in subsection (a), the landlord shall so notify the tenant, in writing, unless the tenant had wrongfully quit the dwelling unit, together with the particulars of and grounds for the retention, including written evidence of the costs of

remedying tenant defaults, such as estimates or invoices for material and services or of the costs of cleaning, such as receipts for supplies and equipment or charges for cleaning services. The security deposit, or the portion of the security deposit remaining after the landlord has claimed and retained amounts authorized under this section, if any, shall be returned to the tenant not later than fourteen days after the termination of the rental agreement. If the landlord does not furnish the tenant with the written notice and other information required by this subsection, within fourteen days after the termination of the rental agreement, the landlord shall not be entitled to retain the security deposit or any part of it, and the landlord shall return the entire amount of the security deposit to the tenant. A return of the security deposit or the furnishing of the written notice and other required information complies with the requirements of this subsection if mailed to the tenant, at an address supplied to the landlord by the tenant, by certified mail, return receipt requested, and postmarked before midnight of the fourteenth day after the date of the termination of the rental agreement. All actions for the recovery of a landlord's complete or partial retention of the security deposit shall be instituted not later than one year after termination of the rental agreement."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

## ACT 283

S.B. NO. 431

A Bill for an Act Relating to Statutory Revision: Amending or Repealing Various Provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the Purpose of Correcting Errors, Clarifying Language, Correcting References, and Deleting Obsolete or Unnecessary Provisions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 214, Hawaiian Homes Commission Act of 1920, as amended, is amended by amending subsection (b) to read as follows:

"(b) In addition the department may:

- (1) Use moneys in the Hawaiian home operating fund, with the prior approval of the governor, to match federal, state, or county funds available for the same purposes and to that end, enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure, and do and perform such other acts and things, as may be necessary or required, as a condition to securing matching funds for such projects or works;
- (2) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof, up to a maximum of \$50,000 to lessees in accordance with section 215;
- (3) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof to a cooperative association in accordance with section 215;

- (4) Permit and approve loans made to lessees by government agencies or private lending institutions, where the department assures the payment of such loans; provided that upon receipt of notice of default in the payment of such assured loans, the department may, upon failure of the lessee to cure the default within sixty days, cancel the lease and pay the outstanding balance in full or may permit the new lessee to assume the outstanding debt; and provided further that the department shall reserve the following rights: the right of succession to the lessee's interest and assumption of the contract of loan; the right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights enumerated at the time of assurance necessary to protect the monetary and other interests of the department;
- (5) Secure, pledge, or otherwise guarantee the repayment of moneys borrowed by the department from government agencies or private lending institutions and pay the interim interest or advances required for loans; provided that the State's liability, contingent or otherwise, either on moneys borrowed by the department or on departmental guarantees of loans made to lessees under this paragraph and paragraphs (2), (3), and (4) of this [section,] subsection, shall at no time exceed \$21,000,000; the department's guarantee of repayment shall be adequate security for a loan under any state law prescribing the nature, amount, or form of security or requiring security upon which loans may be made;
- (6) Use available loan fund moneys or other funds specifically available for such purposes as cash guarantees when required by lending agencies;
- (7) Exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by government agencies or by private lending institutions to lessees the repayment of which is assured by the department. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment, or otherwise underwriting, of any loan, the protecting of security interest, and after foreclosures, the repairing, renovating, or modernization and sale of property covered by the loan and mortgage;
- (8) Pledge receivables of loan accounts outstanding as collateral to secure loans made by government agencies or private lending institutions to the department, the proceeds of which shall be used by the department to make new loans to lessees or to finance the development of available lands for purposes permitted by this Act; provided that any loan agreement entered into under this paragraph by the department shall include a provision that the money borrowed by the department is not secured directly or indirectly by the full faith and credit or the general credit of the State or by any revenues or taxes of the State other than the receivables specifically pledged to repay the loan; provided further that in making loans or developing available lands out of money borrowed under this paragraph, the department may establish, revise, charge, and collect fees, premiums, and charges as necessary, reasonable, or convenient, to assure repayment of the funds borrowed, and the fees, premiums, and



- charges shall be deposited into the Hawaiian home trust fund; and provided further that no moneys of the Hawaiian home loan fund may be pledged as security under this paragraph; and
- (9) Notwithstanding any other provisions of this Act to the contrary, transfer into the Hawaiian home trust fund any available and unpledged moneys from any loan funds, the Hawaiian loan guarantee fund, or any fund or account succeeding thereto, except the Hawaiian home loan fund, for use as cash guarantees or reserves when required by a federal agency authorized to insure or guarantee loans to lessees.”

SECTION 2. Section 26-35.5, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

“(j) Any moneys which the State is required to pay to a member under this section shall be paid from an appropriation made by the legislature at the next session after the requirement to pay inures to the member. The appropriation shall be sufficient to include any postjudgment interest which the member was required to pay if the member has personally satisfied the judgment, or at the rate specified in section [478-2] 478-3 for the period from the entry of judgment for which indemnification is available until the appropriation is enacted if the judgment was not satisfied. Any bill necessary to effect a payment required by subsections (h) and (i) shall be submitted by the member to a legislator; all other bills necessary to effect payments required by this section shall be initiated by the attorney general.”

SECTION 3. Section 39-34, Hawaii Revised Statutes, is amended to read as follows:

“§39-34 **Disputed ownership.** If there are two or more claimants claiming adversely, each to the other or others, to be the holder in due course of the bonds or coupons alleged to have been lost, destroyed, defaced, or stolen, the director of finance may, in the director’s discretion, require the claimants, if not within the State, to appoint agents within the State to accept service of process, or otherwise to submit to the jurisdiction of the courts of the State, and may bring suit on behalf of the State in the circuit court of the first judicial circuit, against the claimants, by interpleader, for the determination of the claimant or claimants entitled to the payment of the bonds or coupons. Jurisdiction is hereby conferred upon the court to hear and determine, without a jury, the suits and to determine whether any of the claimants is entitled to the payment, and, if so, which of the claimants is so entitled; provided that the determination shall not dispense with the conditions prescribed by section 39-33 requiring [six months to elapse, and] the giving of a bond[,] before the payment of the claims. The costs of the suit shall be borne by the claimants, and the court may decree the payment of such costs by any of the unsuccessful claimants, or the apportionments thereof, as may be deemed just. The decision of the court shall be appealable to the supreme court.”

SECTION 4. Section 46-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Neither this section nor any other law, county ordinance, or rule shall prohibit group living in facilities licensed by the State as provided for under section 321-15.6 for persons, including the mentally ill, the elderly, the handicapped, the developmentally disabled, or the totally disabled persons, who are not related to the home operator or facility staff; provided that such group living facilities meet all applicable county requirements, not

## ACT 283

inconsistent with the intent of this subsection and including building height, setback, maximum lot coverage, parking, and floor area requirements. For purposes of this section, "mentally ill person" means a mentally ill person as defined under section 334-1; "elderly person" means an elderly person as defined under section 359-52; "handicapped person" means [a handicapped] an individual with a physical handicap as defined under section 515-2; "developmentally disabled person" means a person suffering from developmental disabilities as defined under section 333E-2; and "totally disabled person" means a person totally disabled as defined under section 235-1."

SECTION 5. Section 53-7, Hawaii Revised Statutes, is amended to read as follows:

**"§53-7 Urban renewal projects in disaster areas.** Notwithstanding any other provisions of this chapter, where the council of a county certifies that an area within the county is in need of renewal, redevelopment, or rehabilitation as a result of a seismic wave, flood, fire, hurricane, earthquake, storm, volcanic activity, explosion, or other catastrophe, natural or [manmade] of human origin (herein called "disaster area") respecting which the governor of the State has certified the need for disaster assistance under Public Law 875, Eighty-first Congress (64 Stat. 1109), or other federal law, the council of a county may approve an urban renewal plan and an urban renewal project with respect to the area without regard to:

- (1) The provisions of this chapter as follows: paragraphs (10) and (16) of section 53-1; the proviso of the first sentence of paragraph (4) of section 53-5; the requirements for housing of displaced families, approval of the plan by planning commission, public hearings and findings required by the county council prior to the approval of the plan as contained in section 53-6, provided that the limitation of time in which to contest validity of the proceedings or of the renewal plan provided in section 53-6 in the case of an urban renewal project for disaster areas shall be twenty days instead of thirty days; the exceptions set forth in the second sentence of section 53-20; the proviso [in clause (1)] of the second sentence of section 53-21; and
- (2) Any of the provisions of this chapter requiring public hearings or requiring that the urban renewal plan conform to the master plan for the development of the county or locality as a whole, or that the urban renewal area be a slum area, or a blighted, deteriorated, or deteriorating area, or that the urban renewal area be predominantly residential in character or be developed or redeveloped for residential use.

In the preparation, planning, financing, acquisition, and disposal of real property, and the execution generally of an urban renewal project for disaster areas, a redevelopment agency shall have all of the rights, powers, privileges, and immunities conferred upon the agency by this chapter including any amendment thereof or addition thereto, or by any other law, in the same manner as though all provisions of law relating to urban renewal projects were applicable to the redevelopment and renewal of the disaster areas as in this section provided, subject to the exceptions hereinabove set forth."

SECTION 6. Section 53-84, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§53-84]]~~ **Incurring of indebtedness by the county.** For the purpose of carrying out its powers, duties, and functions under this part, including for the payment of principal and interest upon any advances for moneys and plans for redevelopment projects, the county may:

- (1) Borrow and apply for and accept advances and loans; provided that unless the obligation of the county to repay such advances or satisfy such loans is limited to the revenues derived by the county from an undertaking as defined in section 53-85, the incurring by the county of any such indebtedness shall be carried out under and pursuant to [the provisions of] chapter 47 [hereof];
- (2) Issue its bonds under and pursuant to [the provisions of] chapter 47 [hereof], including, without limiting the foregoing, for the refunding of bonds issued by an agency of the county abolished as provided in section 53-81 and the refunding of bonds issued by the county under [the next following subparagraph;] paragraph (3); and
- (3) Issue its bonds under and pursuant to [the provisions of] section 53-16, all of the provisions of which shall be applicable to such bonds and to the county in the issuance thereof except as follows:
  - (A) Such bonds shall be issued only for the purpose of carrying out the powers, duties, and functions of the county under this part, including, without limiting the foregoing, the refunding of bonds issued by the county under this [subparagraph] paragraph (3) or the preceding [subparagraphs] paragraphs (1) and (2) of this section or the refunding of bonds issued by an agency of the county abolished as provided in section 53-81;
  - (B) The principal of and interest on such bonds shall be payable and secured solely as provided in [subparagraphs (1) and (2) of paragraph (a) of] section 53-16[.] (a)(1) and (2), and in no event shall be payable from the general fund of the county or from taxes or from any other funds or properties of the county other than those referred to in [said] such paragraphs (1) and (2), nor shall such bonds be secured by the full faith and credit of the county or the general fund or the taxing power of the county;
  - (C) Neither the council nor any officer or employee of the county nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof;
  - (D) The bonds shall be limited obligations of the county payable and secured solely as provided in [item (B) above of this] subparagraph (B) of this section and shall so state on their face;
  - (E) The words “council”<sup>1</sup> or “officers” where used in [paragraph (e) of] section 53-16~~(e)~~ shall mean members of the council and officers of the county; and
  - (F) The words “rents”, “fees”, and “revenues” where used in [paragraph (g) of] section 53-16~~(g)~~ shall mean and include only those rents, fees, and revenues derived by the county from its activities under this part; the words “real [and] or personal property” and “property” where used in [said paragraph] section 53-16~~(g)~~ shall mean only the real [and] or personal property held by the county for the purposes of this chapter and shall not include real [and] or personal

property held for other public uses and purposes, such as streets, parks, public buildings, publicly-owned utilities, and the like; and the word "bonds" where used in [said paragraph] section 53-16(g) shall mean bonds of the county issued under [said] section 53-16(g) as incorporated into this part and the bonds of any agency of the county abolished as provided in section 53-81."

SECTION 7. Section 54-11, Hawaii Revised Statutes, is amended by amending the definitions of "council" and "mayor" to read as follows:

"Council" means the [board of supervisors or] council of each county;"

"Mayor" means the [chairman of the board of supervisors or] executive officer of a county."

SECTION 8. Section 77-5, Hawaii Revised Statutes, is amended to read as follows:

**"§77-5 Compensation plan for blue-collar positions.** The salary structures and schedules prescribed in section 77-13 shall not apply to positions in recognized trades or crafts or other skilled mechanical crafts, or unskilled, semiskilled, or skilled manual labor occupations, including positions of foremen, inspectors, and supervisors in positions having trades, crafts, or laboring experience and knowledge as the paramount requirement, commonly known as blue-collar positions.

- (1) The provisions of section 77-4 where it is not inconsistent with the provisions of this section shall be applicable.
- (2) Salary structures and schedules.
  - (A) The salary structures applicable to blue-collar positions shall be comprised of fifteen salary grades [with each grade consisting of such number of steps determined under section 77-13.5].
  - (B) Pay schedules for nonsupervisory blue-collar positions, hereafter to be referred to as the wage board schedules, shall be established as provided under subparagraph (D).
  - (C) Pay schedules for supervisory blue-collar positions, hereafter to be referred to as wage board supervisory schedules, shall be established as provided under subparagraph (D) for each of the following levels:
    - (i) Working foreman;
    - (ii) Foreman I;
    - (iii) Foreman II;
    - (iv) Foreman III; and[,]
    - (v) General foreman.
  - (D) The pay schedules applicable to employees in blue-collar positions, who are included in collective bargaining units under section 89-6(a), shall be subject to negotiations. The pay schedules applicable to employees in blue-collar positions, who are excluded from coverage under chapter 89, shall be subject to chapter 89C.
- (3) Wherever payment is made on the basis of an annual, weekly, hourly, or daily rate, the rate shall be computed as provided for under section 77-13(c).
- (4) Implementation of compensation plan.

- (A) The conference of personnel directors shall compile and recommend to the public employees compensation appeals board a tentative compensation plan based upon such factors as the kind and subject matter of work, level of difficulty and responsibility, and qualification requirements for classes deemed covered by this section by October 15 of every odd-numbered year.

Full opportunity for consultation with the persons and organizations including employee organizations shall be afforded.

- (B) The appeals board referred to in section 77-4 shall provide for the publication of the tentative compensation plan. All petitions for appeal against the compensation plan, including the pricing of classes or whether the class should be included or excluded from the blue-collar plan, shall be filed with the appeals board within twenty days from the date of publication of the tentative plan.

The board shall meet biennially to hear appeals from affected persons and parties concerning the tentative compensation plan and may hold public hearings as well. At least one appeal hearing shall be held in each jurisdiction.

Final adjustment by the board to the compensation plan shall be in accordance with its established policies and standards relative to compensation. The board shall complete its final adjustments by the third Wednesday in January of every even-numbered year.

Following the final adjustment, the conference of personnel directors shall submit to the state legislature, through the office of the governor, a report setting forth the final compensation plan and the cost thereof for its information and approval. The effective date of the approved plans shall be July 1 of every even-numbered year.

- (5) Subsequent implementation of the compensation plan. The compensation plan for positions covered under this section shall be reviewed and adjusted biennially in accordance with paragraph (4)."

SECTION 9. Section 77-10, Hawaii Revised Statutes, is amended to read as follows:

**"§77-10 Compensation adjustments; rules.** The state director or the county commissions shall adopt rules to provide for adjustments and changes in compensation in the event of promotions, temporary promotions and assignments, demotions, and for the purpose of implementing [sections] section 77-4 [and 77-12]. The rules shall be adopted only after joint conference of the state director and all county commissions and shall be uniformly applied and interpreted throughout the State and the several counties.

The rules shall give proper consideration to merit principles of employment, requirements of model conversion plans [authorized under section 77-13.5], and due recognition to length of service in the event of demotions resulting from physical conditions. The rules shall provide for methods of pay adjustment which may, in the event of nondisciplinary, involuntary movements or reassignments to lower pay ranges, include the payment of a temporary differential which is not to be considered as an adjustment to an employee's base pay. In no event may an employee's base

## ACT 283

pay exceed the maximum step of a lower pay range, or be increased to an amount which will exceed the maximum step of a higher pay range, when the employee moves or is reassigned to a different pay range. The employee's service anniversary date shall not change. No rule shall be applied in any way in violation of sound merit principles."

SECTION 10. Section 77-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The salary structures for white-collar positions covered under this chapter shall be comprised of thirty-one salary ranges, designated SR 4 to SR 31, SC-1, SC-2, and SC-3. In the publication of pay schedules, however, salary ranges may be redesignated and salary ranges which are not being used may be excluded from the respective pay schedules; provided that if SC ranges are being used, they shall be identified as such so that subsection (d) remains applicable. [Unless otherwise determined under section 77-13.5, each] Each salary range shall consist of ten steps, designated B to G and L-1 to L-4; provided that range SC-2 shall consist of nine steps, designated B to G, L-1, L-2, and L-3, and range SC-3 shall consist of eight steps, designated B to G, L-1, and L-2."

SECTION 11. Section 80-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Except as otherwise provided in this section the normal workweek of all government personnel shall be forty hours with not more than eight hours of work in any day. The normal workweek shall be applicable to all personnel, irrespective of whether their work is performed during the hours specified in section 80-1.

For pay and leave purposes, if a legal holiday falls on a:

(1) Saturday and the preceding Friday is observed as a holiday pursuant to section 8-2:

[(1)] (A) For employees whose regular workweek does not include Saturday the workday preceding Saturday shall be held and considered to be a legal holiday in lieu of the holiday which so occurs on the Saturday[.];

[(2)] (B) For employees whose regular workweek includes Saturday, the holiday shall be observed on Saturday, but not on Friday[.];

[For pay and leave purposes, if a legal holiday falls on a]

(2) Saturday and the preceding Friday is not observed as a holiday, employees whose regular workweek includes Saturday shall be entitled to observe the holiday[.];

[For pay and leave purposes, if a legal holiday falls on a]

(3) Sunday and the following Monday is observed as a holiday pursuant to section 8-2:

[(1)] (A) For employees whose regular workweek does not include Sunday, the next regular workday following Sunday shall be held and considered a legal holiday, in lieu of the holiday which so occurs on Sunday[.];

[(2)] (B) For employees whose regular workweek includes Sunday, the holiday shall be observed on Sunday, but not on Monday[.];

[For pay and leave purposes if a legal holiday falls on a regular]

- (4) Regular weekly nonworkday of any employee whose regular workweek is other than Monday-Friday, the next workday following the regular weekly nonworkday shall be held and considered to be a legal holiday for the employee in lieu of the holiday which so occurs on the regular weekly nonworkday.”

SECTION 12. Section 85-45, Hawaii Revised Statutes, is amended to read as follows:

“§85-45 False oath; penalty. Whoever wilfully and falsely takes or subscribes the oath or affirmation by this part prescribed, when required or authorized to take the same, shall be subject to the punishment for perjury.

Section [756-2] 710-1060 shall apply to any indictment for the crime prescribed by this section.

Any person convicted under this part shall be forever barred from holding office or employment under the government of the State or any county thereof, and the person shall not be eligible for suspension of imposition or execution of sentence or probation.”

SECTION 13. Section 88-77, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Upon application of a member, or of the head of the member’s department, any member who has been permanently incapacitated as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, or as the cumulative result of some occupational hazard, through no wilful negligence on the member’s part, may be retired by the board of trustees for service-connected total disability provided that:

- (1) In the case of an accident occurring after July 1, 1963, the employer shall file with the board a copy of the employer’s report of the accident submitted to the [bureau of workers’ compensation;] director of labor and industrial relations;
- (2) An application for retirement is filed with the board within two years of the date of the accident or the date upon which workers’ compensation benefits cease, whichever is later;
- (3) Certification is made by the head of the agency in which the member is employed, stating the time, place, and conditions of the service performed by the member resulting in the member’s disability and that the disability was not the result of wilful negligence on the part of the member;
- (4) The medical board certifies that the member is incapacitated for gainful employment and that the member’s incapacity is likely to be permanent.”

SECTION 14. Section 88-79, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Upon application of a member, or of the head of the member’s department, any member who has been permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, or as the cumulative result of some occupational hazard, through no wilful negligence on the member’s part, may be retired by the board of trustees for service-connected occupational disability provided that:

- (1) In the case of accident occurring after July 1, 1963, the employer shall file with the board a copy of the employer’s report of the

- accident submitted to the [bureau of workers' compensation;] director of labor and industrial relations;
- (2) An application for retirement is filed with the board within two years of the date of the accident, or the date upon which workers' compensation benefits cease, whichever is later;
  - (3) Certification is made by the head of the agency in which the member is employed, stating the time, place, and conditions of the service performed by the member resulting in the member's disability and that the disability was not the result of wilful negligence on the part of the member; and
  - (4) The medical board certifies that the member is incapacitated for the further performance of duty, that the member's incapacity is likely to be permanent."

SECTION 15. Section 92-28, Hawaii Revised Statutes, is amended to read as follows:

**"§92-28 State service fees, increase or decrease of.** Any law to the contrary notwithstanding, the fees or other nontax revenues assessed or charged by any board, commission, or other governmental agency, may, with the approval of the governor, be increased or decreased by the body in an amount not to exceed fifty per cent of the statutorily assessed fee or nontax revenue, in order to maintain a reasonable relation between the revenues derived from such fee or nontax revenue and the cost or value of services rendered, comparability among fees imposed by the State, or any other purpose which it may deem necessary and reasonable; provided that the authority to increase or decrease fees or nontax revenues shall extend only to the following: chapters 6, 28 (pt III), 36, 92, 94, 142, 144, 145, 147, 150, 171, 188, 189, [191, 192,] 231, 269, 271, 321, 338, 373, 403, 407, 408, 409, 415, 421, 422, 425, 431, 434, 438, 439, 440, 442, 443A, 447, 448, 450, 452, 453, 455, 456, 457, 458, 459, 460, 461, 463, 464, 466, 467, 469, 471, 482, 485, 501, 502, 505, 514A, 572, and 574; and provided further that this section shall not apply to fees charged by the University of Hawaii or to judicial fees as may be set by any chapter mentioned above."

SECTION 16. Section 150A-4, Hawaii Revised Statutes, is amended to read as follows:

**"[§150A-4]] Effect on department of land and natural resources and the department of health.** Nothing in this chapter shall be construed to amend or alter the functions, duties, and powers of the department of land and natural resources and the department of health relative to chapters 171, [187, 191,] 187A, 183D, 321, and 328."

SECTION 17. Section 183D-11, Hawaii Revised Statutes, is amended to read as follows:

**"§183D-11 Informer's fee.** One-half of the fine imposed and collected in all cases where the defendant has been convicted for a violation of any of the provisions of this chapter[, chapter 187,] or chapter 195D shall be paid to the person giving the information leading to the arrest of the person so convicted; provided that this section shall not apply, if the informer is a regular salaried sheriff, deputy sheriff, police officer, warden or constable, or officer or agent of the department."

SECTION 18. Section 294-39, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:



“(a) Any person subject to this chapter in the capacity of the operator, owner, or registrant of a motor vehicle in this State, or registered in this State, who violates any applicable provision of this chapter, shall be subject to citation for the violation by any county police department in a form and manner approved by the violations bureau of the district court of the first circuit. Notwithstanding any provision of the Hawaii Penal Code, each violation shall be deemed a separate offense and shall be subject to a fine not less than \$100 nor more than \$1,000 and the fine shall not be suspended; provided if the person is convicted of not having had a no-fault policy in effect at the time the citation was issued, the fine for the first offense shall be \$100, with a minimum of \$400 for each additional offense.

The general penalty provision of this section shall not apply to[:

- (1) Any] any operator of a motor vehicle owned by another person if the operator’s own insurance covers such driving; nor
- [(2) Any] to any operator of a motor vehicle owned by that person’s employer during the normal scope of that person’s employment.

In the case of multiple violations the court shall, in addition to any other penalty, impose the following penalties:

- (1) Imprisonment of not more than thirty days;
- (2) Suspension or revocation of driver’s license of the driver and of the registered owner;
- (3) Suspension or revocation of the motor vehicle registration plates of the vehicle involved;
- (4) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charges incident to seizure of the vehicle; or any other cost involved pursuant to section 294-10; or
- (5) Any combination of such penalties.”

SECTION 19. Section 304-8.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§304-8.5]]~~ **Animal research farm, Waialeale, Oahu revolving fund.** There is established a revolving fund for the animal research farm, Waialeale, Oahu, operated by the college of tropical agriculture[, ] and human resources, University of Hawaii, into which shall be deposited the receipts from fees realized from the sale of livestock, services, and supplies. Funds deposited in this account shall be expended for animal research, and services and supplies related thereto.”

SECTION 20. Section 307-2, Hawaii Revised Statutes, is amended to read as follows:

“**§307-2 Board of directors; composition.** The affairs of the research corporation shall be under the general management and control of the board of directors, hereinafter referred to as the “board”. The board shall consist of nine members. The president and director of research of the University of Hawaii, and the director of planning and economic development of the State shall serve as ex officio voting members. The remaining six members shall be appointed by the governor pursuant to section 26-34. All the members appointed by the governor, other than the ex officio members, shall serve for a term of four years, ~~except that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year, each term commencing on July 1 and expiring on June 30.~~ All members of the board shall serve without pay, but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities.

## ACT 283

The members of the board shall elect the [chairman] chairperson of the board.

If for any reason whatsoever[,] any of the ex officio positions [are] is eliminated or changed in any way, the officer performing the basic functions of such ex officio position shall qualify to serve as the ex officio voting member on the board.”

SECTION 21. Section 321-15.6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The director shall adopt rules regarding adult residential care homes in accordance with chapter 91 which shall be designed to:

- (1) Protect the health, safety, and civil rights of persons residing in facilities regulated;
- (2) Provide for the licensing of facilities providing domiciliary care; provided that the rules shall allow group living in an adult residential care home of up to five persons, including the mentally ill, the elderly, the handicapped, the developmentally disabled, or the totally disabled persons who are not related to the home operator or facility staff. For purposes of this section, “mentally ill person” means a mentally ill person as defined under section 334-1; “elderly person” means an elderly person as defined under section 359-52; “handicapped person” means [a handicapped individual] an individual with a physical handicap as defined under section 515-2; “developmentally disabled person” means a person suffering from developmental disabilities as defined under section 333E-2; and “totally disabled person” means a person totally disabled as defined under section 235-1;
- (3) Comply with applicable federal laws and regulations of Title XVI of the Social Security Act, as amended; and
- (4) Provide penalties for the failure to comply with any rule.”

SECTION 22. Section 328-99, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§328-99]]~~ Exceptions. Out-of-state prescriptions filled pursuant to section [330-7] 328-101 shall be exempt from this part.”

SECTION 23. Section 343-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as otherwise provided, an environmental assessment shall be required for actions which:

- (1) Propose the use of state or county lands or the use of state or county funds, other than funds to be used for feasibility or planning studies for possible future programs or projects which the agency has not approved, adopted, or funded, or funds to be used for the acquisition of unimproved real property; provided that the agency shall consider environmental factors and available alternatives in its feasibility or planning studies.
- (2) Propose any use within any land classified as conservation district by the state land use commission under chapter 205.
- (3) Propose any use within the shoreline area as defined in section [205-31.] 205A-41.
- (4) Propose any use within any historic site as designated in the National Register or Hawaii Register as provided for in the Historic Preservation Act of 1966, Public Law 89-665, or chapter 6E.

- (5) Propose any use within the Waikiki-Diamond Head area of Oahu, the boundaries of which are delineated on the development plan for the Kalia, Waikiki, and Diamond Head areas (map designated as portion of 1967 city and county of Honolulu General Plan Development Plan Waikiki-Diamond Head Section A).
- (6) Propose any amendments to existing county general plans where such amendment would result in designations other than agriculture, conservation, or preservation, except actions proposing any new county general plan or amendments to any existing county general plan initiated by a county."

SECTION 24. Section 407-61.5, Hawaii Revised Statutes, is amended to read as follows:

"**[§407-61.5]** **Basis for disapproval.** [(a)] The commissioner may disapprove any proposed acquisition of an association, foreign association, savings and loan holding company, or foreign holding company upon a determination that:

- (1) The experience, character, general fitness, financial responsibility, and resources and managerial resources of the acquiring person and of the officers, directors, and controlling shareholders of a corporation or the partners, members, or principals of an entity other than a corporation are not such as to command the confidence of the community and do not warrant belief that the business of the affected association will be operated honestly, fairly, and efficiently within the purposes of this chapter; [or]
- (2) The convenience, needs, and advantage of the locality or community in which the affected association or foreign association conducts its business will not be promoted by allowing the acquiring person to acquire control, directly or indirectly, of the affected association or foreign association; [or]
- (3) The proposed acquisition of control by the acquiring persons will substantially lessen competition or tend to create a monopoly or in any other manner tend to be a restraint of trade or have any other anticompetitive effect in the savings and loan industry in the State, provided that the anticompetitive effects are not clearly outweighed by the public interest in meeting the convenience and needs of the community to be served; [or]
- (4) The financial condition of the acquiring person is such as might jeopardize the financial stability of the association, foreign association, savings and loan holding company, or foreign holding company or prejudice the interests of the depositors of the association; [or]
- (5) The competence, experience, or integrity of the acquiring person or any of the proposed management personnel indicates that it would not be in the best interests of the depositors of the association or foreign association involved or the public to permit the acquiring person to control the association, foreign association, savings and loan holding company, or foreign holding company; or
- (6) The acquiring person has failed or refused to furnish information requested by the commissioner."

SECTION 25. Section 408-16, Hawaii Revised Statutes, is amended to read as follows:

**“§408-16 Other provisions inapplicable; effect of excessive interest.** Sections [478-4] 478-5 and 478-6 shall not apply to loans made by industrial loan companies under the authority of this chapter.

If a greater rate of interest than that permitted by this chapter is contracted for in any contract within the purview of this chapter, the contract shall not, by reason thereof, be void. But if, in any action on the contract, proof is made that a greater rate of interest than that permitted by this chapter has been directly or indirectly contracted for, the plaintiff shall only recover upon the contract the amount actually received by the borrower on the contract in cash, credit, or the equivalent thereof, or any combination of cash, credit, or the equivalent thereof, or any combination of cash, credit, or the equivalent, plus the charges (if any) which were properly charged to the borrower and which have not been deducted from the principal amount of the contract or otherwise paid by the borrower; and, if interest has been paid, judgment shall be for the aforesaid recoverable amount less the amount of interest so paid up to one year after the date of the contract; and the defendant shall recover the defendant's costs. The provisions of chapter 476 shall not apply to any loan made in compliance with this chapter.”

SECTION 26. Section 410-15, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Loans may be made to members of the board of directors, credit committee, and audit committee under the same general terms and conditions as to other members of the credit union, but all such loans shall be reported to the commissioner at least annually, and such a loan may be made only if:

- (1) The loan complies with all lawful requirements under this chapter with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers;
- (2) Upon application for the loan, if the aggregate amount of the credit union official's outstanding loans and amount being applied for exceed \$5,000 or a lesser amount prescribed by the board of directors of the credit union, the loan must be approved by the credit committee or credit manager and board of directors after the submission to them of a detailed current financial statement by the loan applicant. However, loans that are fully secured by shares and deposits in the credit union need not be approved by the board of directors and the authority to approve these loans may be delegated to the loan officer by the credit committee or credit manager;
- (3) The loan applicant takes no part in the consideration of the application and is not present during the taking of the vote by the credit committee or credit manager, and board of directors meeting while the application is under consideration;
- (4) Upon the making of the loan, the aggregate amount of loans outstanding under authority of this section shall not exceed ten per cent of the unimpaired capital and surplus of the credit union; and
- (5) A credit union may permit its officers, directors, employees, loan officers, credit manager, and members of the audit and credit committees to act as coborrowers, guarantors, or endorsers of loans to other credit union members; provided that the approval of the board of directors is required when any loan, by itself, or when added to any outstanding loans or such loans made as a coborrower, [grantor,] guarantor, or endorser, exceeds \$5,000.”

SECTION 27. Section 437-28, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board may, after notice and hearing as provided in chapter 91, and subject to appeal to the circuit court of the circuit in which the board has jurisdiction under the procedure and rules prescribed from time to time by the laws of the State or the applicable rules of the courts pertaining to appeals to circuit courts, suspend, revoke, fine, or deny the renewal of any license, or prior to notice and hearing deny the issuance of any license if [it] the board finds that the applicant or holder, or any officer, director, general manager, trustee, partner, or stockholder owning more than ten per cent interest of the applicant or holder:

- (1) Has intentionally made a false statement of a material fact in the application for a license or in any other statement required by this chapter or has obtained or attempted to obtain a license by fraud or misrepresentation; [or]
- (2) Has failed to comply, observe, or adhere to any provision of this chapter or any other law relating to the sale, taxing, or licensing of motor vehicles or any rule or order made pursuant to this chapter; [or]
- (3) Has committed a fraudulent act in selling, purchasing, or otherwise dealing in motor vehicles or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of a motor vehicle or any interest therein including an option to purchase motor vehicles; [or]
- (4) Has engaged in business under a past or present license issued pursuant to this chapter, in a manner as to cause injury to the public or to those with whom one is dealing; [or]
- (5) Has failed to comply, observe, or adhere to any law in any other respect on account whereof the board may deem the applicant or holder to be an unfit or improper person to hold a license; [or]
- (6) Has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license; [or]
- (7) Is insolvent or has filed or is the subject of petition for bankruptcy, wage earner's plan, or financial reorganization plan; or has made or proposes to make an assignment for benefit of creditors; [or]
- (8) In the case of an individual applicant or holder of a license, is not at least eighteen years of age; in the case of a partnership applicant or holder of a license, if any general or limited partner thereof is not at least eighteen years of age; [or]
- (9) Has charged more than the legal rate of interest on the sale or purchase or attempted sale or purchase or in arranging the sale or purchase of a motor vehicle or any interest therein including an option to purchase; [or]
- (10) Has violated any of the laws pertaining to false advertising or to [retail installment] credit sales in the offering, soliciting, selling, or purchasing, or arranging to sell or purchase a motor vehicle or any interest therein; [or]
- (11) Has wilfully failed or refused to perform any unequivocal and indisputable obligation under any written agreement involving the sale or purchase of a motor vehicle or any interest therein including an option to purchase; [or]
- (12) Has been denied the issuance of a license under this chapter for substantial culpable cause or for having had a license issued

- under this chapter suspended, revoked, or the renewal thereof denied for substantial culpable cause; [or]
- (13) Has entered or has attempted to enter or proposes to enter into any contract or agreement contrary to this chapter or any rule adopted thereunder; [or]
  - (14) Has been or is engaged or proposes to engage in the business of selling new motor vehicles as a dealer or auction without a proper franchise therefor; [or]
  - (15) Has at any time employed or utilized or attempted or proposed to employ or utilize any person not licensed under this chapter who is required to be so licensed; [or]
  - (16) Has entered or attempted to enter any one-payment contract, where the contract is required to be signed by the purchaser prior to removal of the motor vehicle for test driving from the seller's premises; [or]
  - (17) Being a salesperson or dealer:
    - (A) Has required a purchaser of motor vehicles as a condition of sale and delivery thereof to purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser; provided that this prohibition shall not apply as to special features, appliances, accessories, or equipment which are ordinarily installed on the vehicle when received or acquired by the dealer; [or]
    - (B) Has represented and sold as an unused motor vehicle any motor vehicle which has been operated as a demonstrator, leased, or U-drive motor vehicle; [or]
    - (C) Has sold a new motor vehicle without providing or securing for the purchaser the standard factory new car warranty for the vehicle, unless the dealer or salesperson clearly notes in writing on the sales contract that the new motor vehicle is sold without the standard factory warranty; or
    - (D) Has engaged in any improper business conduct; [or]
  - (18) Being an applicant or holder of a dealer's license:
    - (A) Has sold or proposed to sell new motor vehicles without providing for the maintenance of a reasonable inventory of parts for new vehicles or without providing and maintaining adequate repair facilities and personnel for new vehicles at either the main licensed premises or at any branch location; [or]
    - (B) Has employed or proposed to employ any salesperson who is not duly licensed under this chapter; or
    - (C) Has sold or proposed to sell new motor vehicles without being franchised therefor; [or]
  - (19) Being an applicant or holder of an auction's license:
    - (A) Has employed or proposed to employ any auctioneer who is not licensed under this chapter; or
    - (B) Has sold or proposed to sell new motor vehicles without being franchised therefor; [or]
  - (20) Being an applicant for a salesperson's license:
    - (A) Does not intend to be employed as a salesperson for a licensed motor vehicle dealer; [or]
    - (B) Does not intend to be employed as a salesperson as the principal occupation; or
    - (C) Intends to be employed as a salesperson for more than one dealer; [or]

- (21) Being a motor vehicle auctioneer, does not intend to be employed as such by a licensed auction under this chapter; or
- (22) Being a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative:
- (A) Has attempted to coerce or has coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with the dealer, by threatening to cancel the franchise agreement or by threatening to refuse, at the expiration of the current franchise agreement, to enter a new franchise agreement with the dealer; [or]
  - (B) Has attempted to coerce or coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with the dealer, by awarding or threatening to award a franchise to another person for the sale of the same make of any motor vehicle in the same sales area of responsibility covered by the existing franchise agreement of the dealer; [or]
  - (C) Has attempted to or has canceled or failed to renew the franchise agreement of any dealer in this State without good faith, as defined herein. Upon the cancellation or failure to renew the franchise agreement, the party canceling or failing to renew the franchise agreement shall, at the dealer's option, either compensate the dealer at the fair market going business value for the dealer's capital investment, which shall include but not be limited to the going business value of the business, goodwill, property, and improvement owned or leased by the dealer for the purpose of the franchise, inventory of parts, and motor vehicles possessed by the dealer in connection with the franchise, plus reasonable attorney's fees incurred in collecting compensation; provided that the investment shall have been made with reasonable and prudent judgment for the purpose of the franchise agreement; or compensate the dealer for damages including attorney's fees as aforesaid, resulting from the cancellation or failure to renew the franchise agreement. As used herein, "good faith" means the duty of each party to any franchise agreement fully to comply with that agreement, or to act in a fair and equitable manner towards each other; [or]
  - (D) Has delayed delivery of or refused to deliver without cause, any new motor vehicle to a dealer, franchised to sell the new motor vehicle, within a reasonable time after receipt of a written order for the vehicle from the dealer. The delivery to another dealer of a motor vehicle of the same model and similarly equipped as the vehicle ordered by a dealer who has not received delivery thereof, but who

had placed the written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle without cause. The nondelivery of a new motor vehicle to a dealer within sixty days after receipt of a written order for the vehicle from a dealer shall also be prima facie evidence of delayed delivery of, or refusal to deliver, a new motor vehicle without cause; provided that the delayed delivery of, or refusal to deliver, a motor vehicle shall be deemed with cause if the manufacturer establishes that the delay or refusal to deliver is due to a shortage or curtailment of material, labor, transportation, utility service, labor[,] or production difficulty, or other similar cause beyond the reasonable control of the manufacturer; [or]

- (E) Has discriminated against any of their franchised dealers in this State by directly or indirectly charging the dealer more for a new motor vehicle or services, parts, or accessories or a higher rate of transportation for transporting the vehicle from the manufacturing or assembly plant to the dealer or any portion of the distance, than is charged to any other of their franchised dealers in other states for the same make, model, and year of a new motor vehicle or for the same services, parts, or accessories or for similar transportation for the vehicle during the same period. A manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative who provides or causes to be provided greater transportation benefits for a new motor vehicle as aforesaid to any of their franchised dealers in other states than is provided to any of their franchised dealers in this State for the same or lesser price or charge than that imposed upon the franchised dealer in this State during the same period is deemed to have so discriminated against the franchised dealer in this State. Evidence of similar discriminatory practice against franchised dealers in other states shall not constitute a defense to or justification of the commission of the discriminatory act against the franchised dealer in this State. The intent and purpose of this subparagraph is to eliminate inequitable pricing policies set by manufacturers, factory branches, factory representatives, distributors, distributor branches, or distributor representatives which result in higher prices of new motor vehicles to the consumer in this State. This subparagraph shall be liberally interpreted to effect [the] its intent and purpose and in the application thereof, the substance and effect and not the form of the acts and transactions shall be primarily considered in determining whether a discriminatory act has been committed. Nothing contained in this subparagraph [(E)] shall prohibit establishing delivered prices or destination charges to dealers in this State which reasonably reflect the seller's total transportation costs incurred in the manufacture or delivery of products to the dealers, including costs which are related to the geographical distances and modes of transportation involved in shipments to this State, or



- which meet those lower prices established by competitors;  
[or]
- (F) Has required a dealer of new motor vehicles in this State as a condition of sale and delivery of new motor vehicles to purchase special features, appliances, accessories, or equipment not desired or requested by the dealer; provided that this prohibition shall not apply to special features, appliances, accessories, or equipment, except heaters, which are regularly installed on that particular model of new motor vehicles as "standard" equipment or to special features, appliances, accessories, or equipment which are an integral part of the new motor vehicles and cannot be removed therefrom without substantial expense; or
- (G) Has failed to adequately and fairly compensate its dealers for labor, parts, and other expenses incurred by the dealer to perform under and comply with manufacturer's warranty agreements. In no event shall any manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative pay its dealers a labor rate per hour for warranty work that is less than that charged by the dealer to the retail customers of the dealer nor shall the rates be more than the retail rates. All claims made by dealers for compensation for delivery, preparation, and warranty work shall be paid within thirty days after approval and shall be approved or disapproved within thirty days after receipt. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval."

SECTION 28. Section 437-32, Hawaii Revised Statutes, is amended to read as follows:

**"§437-32 [Retail installment] Credit sale<sup>1</sup> contracts; agreements concerning, unlawful.** No person who is engaged in, or about to engage in, the business of selling motor vehicles at retail shall enter into any contract, agreement, or understanding, express or implied, with any manufacturer or distributor of motor vehicles that the person will sell only to a designated person, or class of persons, all or any part of the [retail installment] credit sale contracts arising out of the sale by the person of motor vehicles, or that the person will refuse to sell such [retail installment] credit sale contracts to any designated person, or class of persons. Any such contract, agreement, or understanding is declared to be against the public policy of this State and to be unlawful and void."

SECTION 29. Section 437-34, Hawaii Revised Statutes, is amended to read as follows:

**"§437-34 [Retail installment] Credit sale<sup>1</sup> contracts, when purchase of unlawful.** No person engaged in the business of buying [retail installment] credit sale contracts from motor vehicle dealers in this State, and no officer, agent, or representative of such person, shall purchase or attempt to purchase any such [retail installment] credit sale contract from any motor vehicle dealer in this State:

- (1) When the dealer in consequence of any contract, agreement, or arrangement between such person and a manufacturer or distributor supplying motor vehicles to the dealer has been induced or coerced to sell such [retail installment] credit sale contract by

means of any statement, suggestion, promise, or threat, made, directly or indirectly, that the manufacturer[,] or distributor supplying motor vehicles to the dealer would in any manner injure or benefit the dealer, or by means of any act of the manufacturer or distributor that has benefited or injured the dealer, or by means of any statement or representation, made, directly or indirectly, that the dealer is under any obligation whatsoever to make such sale;

- (2) When such person has received or has contracted to receive from any manufacturer or distributor supplying motor vehicles to the dealer, or has given or contracted to give to the manufacturer or distributor, any subsidy or thing of service or value, where the effect of the giving or receiving of such subsidy or thing of service or value may be to lessen or eliminate competition in the business of purchasing [retail installment] credit sale contracts from motor vehicle dealers or tend to grant an unfair trade advantage or to create a monopoly in such person."

SECTION 30. Section 437-37, Hawaii Revised Statutes, is amended to read as follows:

"**§437-37 [Installment] Credit sale<sup>1</sup> contract violations; penalty.** Whoever violates any of the provisions of sections 437-32 to 437-34 relating to sales or purchase of [retail installment] credit sale contracts shall be fined not less than \$25 nor more than \$1,000."

SECTION 31. Section 445-166, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No mechanically or electrically operated device considered as a major ride and used as an amusement ride shall be permitted to be used or operated at a carnival, circus, fair, or amusement park unless:

- (1) A safety belt or other safety device of similar purpose is installed and used so as to minimize or prevent injury to persons riding on the device and other persons on the premises;
- (2) An attendant is present at all times during the operation of the device; and
- (3) The device has been inspected by the department of labor and industrial relations as required by [section 396-4(b)(4).] section 397-4(b)(5).

This section shall not apply to any coin operated ride and mechanically or electrically operated devices considered or known in the amusement trade as kiddie rides."

SECTION 32. Section 459-7, Hawaii Revised Statutes, is amended as follows:

1. Subsection (a) is amended to read:

"(a) Except as otherwise provided in this chapter, every person desiring to begin or to continue the practice of optometry, before beginning or continuing practice, upon presentation of satisfactory evidence, verified by oath, that the applicant is a graduate of an American optometric college, school, or university approved by the board of examiners in optometry and accredited by a regional or professional accreditation organization and recognized by the council on post-secondary accreditation or by the United States [Office] Department of Education, shall take an examination before the board upon complying with the following requirements:

- (1) Applications for examination shall be made out and filed in writing with the executive secretary of the board; and
- (2) Each application shall be accompanied by an application fee, which shall be retained by the board, and an examination fee.”

2. Subsection (f) is amended to read:

“(f) Certificates of registration shall be endorsed authorizing licensed optometrists to use pharmaceutical agents for examination purposes. A certificate shall certify that an optometrist has complied with the following requirements:

- (1) Successful completion of instruction in general and clinical pharmacology as it relates to the practice of optometry, with particular emphasis on ocular pharmacology. The systemic effects and reactions to topical pharmaceutical agents used for examinations shall be studied, as well as the emergency management and referral of any adverse reactions that may occur. Instruction shall also include review of systemic and ocular diseases and clinical techniques and instruments used with these pharmaceutical agents for examination purposes. The course of study shall be approved by the board, and shall be offered by an institution which is accredited by a regional or professional accreditation organization and is recognized by the council on post-secondary accreditation or by the United States [Office] Department of Education; and
- (2) Successful completion of an examination approved by the board which tests for those subjects outlined in the course of instruction in paragraph (1) [above].”

SECTION 33. Section 462A-8, Hawaii Revised Statutes, is amended to read as follows:

“§462A-8 Denial, suspension, or revocation. The director may deny the issuance of a license to any applicant, and may suspend or revoke the license of any pilot for any of the following reasons:

- (1) Violation of this chapter or any rule adopted by the [board;] director;
- (2) Loss, damage, or injury due to negligent pilotage;
- (3) Habitual use of any substance rendering a pilot unfit to be entrusted with the charge of a vessel;
- (4) Inability to physically or mentally perform the duties of a pilot;
- (5) Failure to maintain active service as a pilot in the State;
- (6) Procurement of a license through fraudulent misrepresentation or deceit;
- (7) Participation in any unfair or deceptive act or practice as prohibited by section 480-2;
- (8) Violation of any law or regulation intended to promote marine safety or protect navigational waters;
- (9) Failure to report marine accidents in accordance with the rules of this chapter;
- (10) Failure to maintain a current and valid federal pilots license issued in accordance with title 46, United States Code, chapter 71.”

SECTION 34. Section 462A-11, Hawaii Revised Statutes, is amended to read as follows:

“§462A-11 Rates of pilotage. The director shall establish the rates of pilotage for vessels subject to this chapter as follows:

- (1) The rates of pilotage in effect [upon passage of this bill] on July 1, 1978, shall remain in effect until changed by the director pursuant to this chapter.
- (2) No rate shall be increased, lowered, or altered without a public hearing in accordance with chapter 91. Due notice of hearing shall be mailed at least thirty days prior to the date of hearing to the individual licensed pilots, the pilot's association, and all owners, charterers, operators, and agents of vessels who have registered with the [board.] department.
- (3) The director, in setting rates of pilotage, shall fix such amounts as will be a fair charge for the services rendered with due regard to necessary operating expenses, maintenance of, depreciation on, and return on investment for property used in the business of pilotage, and the rates and charges of pilotage at comparable ports of the United States.
- (4) Persons aggrieved by the director's decision setting the rates of pilotage may appeal to circuit court as provided in chapter 91.”

SECTION 35. Section 467-9, Hawaii Revised Statutes, is amended by amending the title to read:

“§467-9 License[;] and<sup>1</sup> applications [and fees].”

SECTION 36. Section 467-11, Hawaii Revised Statutes, is amended to read as follows:

“§467-11 Fees; original license and biennial renewals. (a) The fee for any license prescribed by this chapter shall be as follows:

- (1) To act as a real estate broker, \$50, \$20 of which shall be deposited in the real estate education fund;
- (2) To act as a real estate [salesman,] salesperson, \$50, \$20 of which shall be deposited in the real estate education fund;
- (3) Biennial renewal for broker, \$100, \$20 of which shall be deposited in the real estate education fund;
- (4) Biennial renewal for [salesman,] salesperson, \$50, \$20 of which shall be deposited in the real estate education fund;
- (5) To obtain a branch office license, \$50;
- (6) To reinstate a suspended license, \$25;
- (7) Biennial renewal of inactive broker license, \$100, \$20 of which shall be deposited in the real estate education fund;
- (8) Biennial renewal of inactive [salesman] salesperson license, \$50, \$20 of which shall be deposited in the real estate education fund.

(b) A fee of \$10 shall be charged for the reissuance of a lost license, or for the reissuance of a license when there has been a change in the licensee's name or for the reissuance of a license when there has been a change in the business address, or, in the case of a [salesman,] salesperson, when the [salesman] salesperson is either employed by or associated with a different broker.

(c) The biennial renewal fee shall be paid to the real estate commission on or before December 31 of each even-numbered year. Failure, neglect, or refusal of any duly licensed real estate broker or real estate [salesman] salesperson to pay the biennial renewal fee shall constitute a forfeiture of the license of the broker or [salesman,] salesperson. The license of the broker or [salesman] salesperson may be restored upon written application therefor, the payment to the commission of the delinquent fee and a penalty fee of

\$10, and satisfaction of such other requirements as the commission may impose as a condition to restoration.

(d) A broker or [salesman] salesperson may place the broker's or [salesman's] salesperson's license on an inactive status upon payment of the proper fee, and such license may be renewed biennially on or before December 31 of each even-numbered year.

(e) All fees and other moneys collected or received under this chapter shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund.

(f) The commission may refund any fee erroneously paid to it under [the provisions of] this section [and section 467-9] when the commission deems it just and equitable.

(g) [Education fund balance.] If beginning on July 1, 1987, the education fund balance at the end of any fiscal biennium exceeds \$1,200,000, there shall be a moratorium on such renewal contributions and the commission shall review and consider a reduction in the same amount in licensee fees."

SECTION 37. Section 467-18, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Should the commission pay from the real estate recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed real estate broker or real estate salesman, the license of the broker or salesman shall be automatically terminated upon the issuance of a court order authorizing payment from the real estate recovery fund. No such broker or salesman shall be eligible to receive a new license until the broker or salesman has repaid in full, plus interest at the rate provided for in section [478-2,] ~~478-3~~, the amount paid from the real estate recovery fund on the broker's or salesman's account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection."

SECTION 38. Section 468E-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Members shall serve for a term of three years[, provided that of the initial appointees, two shall serve for terms of one year; two shall serve for terms of two years; and three shall serve for terms of three years]. Terms shall begin on the first day of the fiscal year and end on the last day of the fiscal year[, except for the first appointed members, who shall serve through the last calendar year of the year in which they are appointed before commencing the terms for which they are appointed as prescribed by this section]."

SECTION 39. Section 477E-2, Hawaii Revised Statutes, is amended by amending the definition of "creditor" to read as follows:

"'Creditor' means any bank; savings and loan association; trust company; industrial loan company or small loan company; credit union; mortgage banker, broker, or solicitor; [pawn broker;] pawnbroker; mutual or fraternal benefit society; debt adjuster; the issuer of a credit card as defined in section [851-1;] ~~708-800~~; any person who initiates, extends, renews, or continues loans of money or credit; any person who regularly arranges for the initiation, extension, renewal, or continuation of a loan of money or credit; or any assignee of an original creditor who participates in the decision to grant, extend, renew, or to continue such loan or credit."

**SECTION 40.** Section 484-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In addition to any other remedies, the purchaser, under the preceding subsection, may recover the consideration paid for the lot, parcel, unit, or interest in subdivided lands together with interest at the rate provided for in section [478-2,] 478-3, from the date of payment, property taxes paid, costs, and reasonable attorneys fees less the amount of any income received from the subdivided lands upon tender of appropriate instruments of reconveyance. If the purchaser no longer owns the lot, parcel, unit, or interest in subdivided lands, [he] the purchaser may recover the amount that would be recoverable upon a tender of a reconveyance less the value of the land when disposed of and less interest at the rate provided for in section [478-2,] 478-3, on that amount from the date of disposition.”

**SECTION 41.** Section 485-14, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Registration of investment advisers. An application for registration, duly verified by oath by the applicant, shall be filed in the office of the commissioner accompanied by [(1)] an irrevocable written consent to the service of process upon the commissioner in actions against the investment adviser in manner and form provided in section 485-12[, (2)]; the applicant’s photograph[,]; and [(3)] a form of the disclosure statement described in section 485-25(c)(4). Information on the registration statement shall include:

- (1) The name and form of organization under which the investment adviser engages or intends to engage in business; the name of the state or other sovereign power under which the investment adviser is organized; the location of the investment adviser’s principal business office and branch offices, if any; the names and addresses of the investment adviser’s partners, officers, directors, and persons performing similar functions or, if the investment adviser is an individual, of such individual; and the number of the investment adviser’s employees;
- (2) The education, the business affiliations for the past five years, and the present business affiliations of the investment adviser and of the investment adviser’s partners, officers, directors, and persons performing similar functions and of any controlling person thereof;
- (3) The nature of the business of the investment adviser, including the manner of giving advice and rendering analyses or reports;
- (4) A balance sheet certified by an independent public accountant and other certified financial statements if the investment adviser has custody of or discretionary authority over client money, securities, or other assets, or an unaudited, verified balance sheet and financial statements if the investment adviser has no custody of or discretionary authority over client money, securities, or other assets;
- (5) The nature and scope of the authority of the investment adviser with respect to clients’ funds and accounts;
- (6) The basis or bases upon which the investment adviser is compensated;
- (7) Whether the investment adviser, or any person employed by or associated in business with the investment adviser, is subject to

- any disqualification which would be a basis for denial, suspension, or revocation of registration of the investment adviser under section 485-15;
- (8) A statement as to whether the principal business of the investment adviser consists or is to consist of acting as investment adviser; and
  - (9) Other information as to the applicant's previous history, record, and association as the commissioner deems necessary including:
    - (A) Disclosure of any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony;
    - (B) The applicant's financial history; and
    - (C) Any additional information as the commissioner deems necessary to establish the applicant's qualifications.

The commissioner may use a uniform registration form adopted by the North American Securities Administrators Association, the Securities and Exchange Commission, or any national securities exchange or national securities association registered under the Securities Exchange Act of 1934; provided such form encompasses the information required under this section.

If an applicant is currently registered by the United States Securities and Exchange Commission or any national securities exchange or national securities association registered under the Securities Exchange Act of 1934, the commissioner may accept a certified copy of the registration application the applicant submitted to obtain such registration in lieu of the application required by this section."

SECTION 42. Section 490:1-201, Hawaii Revised Statutes, is amended by amending the definition of "holder" to read as follows:

"(20) "Holder" means a person who is in possession of a document of title or an instrument or [in] a certificated investment security drawn, issued, or indorsed to the person or to the person's order or to bearer or in blank."

SECTION 43. Section 490:9-304, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by [ ] perfecting a security interest in the document, and any security interest in the [ ] goods otherwise perfected during such period is subject thereto."

SECTION 44. Section 490:9-304, Hawaii Revised Statutes, is amended by amending subsection (5) to read as follows:

"(5) A security interest remains perfected for a period of twenty-one days without filing where a secured party having a perfected security interest in an instrument (other than a certificated security), a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor:

- (a) Makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority

between conflicting security interests in the goods is subject to [subsection (3) of] section [490:9-312;] 490:9-312(3); or

- (b) Delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal, [[or]] registration of transfer.”

SECTION 45. Section 490:9-402, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor when it is filed to perfect a security interest in:

- (a) Collateral already subject to a security interest in another jurisdiction when it is brought into this State, or when the debtor’s location is changed to this State. Such a financing statement must state that the collateral was brought into this State or that the debtor’s location was changed to this State under such circumstances; [or]
- (b) Proceeds under section 490:9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; [or]
- (c) Collateral as to which the filing has lapsed; or
- (d) Collateral acquired after a change of name, identity, or corporate structure of the debtor (subsection [(7)].) (6).”

SECTION 46. Section 501-171, Hawaii Revised Statutes, is amended to read as follows:

“**§501-171 Registration upon transfer by descent and devise.** (a) When the owner of registered land, or of any estate or interest therein, dies, having devised the same by will, the person or persons entitled thereto may file or record with the assistant registrar of the land court the duplicate certificate issued to the testator, a correct statement of the full names of the devisees, the residence or post office address of each and their marital status and a reference to the number of the certificate of title of the land affected, a certified copy of the will, either a certified copy of the order of the circuit court admitting it to probate or a certified copy of the written statement of the registrar of the circuit court admitting it to informal probate, and a certified copy of an order of the circuit court determining the persons entitled to distribution of the registered land and directing or approving distribution, and thereupon the assistant registrar shall cancel the duplicate certificate issued to the testator, and issue a new duplicate certificate or certificates to the devisee or devisees. When the owner of registered land or of any estate or interest therein dies, not having devised the same, the persons entitled thereto by law may file or record with the assistant registrar the duplicate certificate issued to the intestate, a correct statement of the full names of the heirs, the residence [and] or post office address of each, and their marital status, a certified copy of the judgment of the circuit court in an action determining the heirs, or a certified copy of an order of the circuit court in probate proceedings determining the persons entitled to distribution of the registered land and directing or approving distribution, and thereupon the assistant registrar shall cancel the duplicate certificate issued to the intestate, and issue a new duplicate certificate or certificates to the heir or heirs entitled thereto.

[Instruments which must be registered.] (b) No voluntary instrument or deed of a personal representative, assignee for the benefit of creditors, sheriff, master, commissioner, or other officer purporting to transfer or



create a lien or charge upon any estate or interest of any devisee or heir in registered land or to authorize the same to be done, shall have any effect to accomplish that purpose until the title of the heir or devisee is registered as herein provided. An involuntary lien, charge, or lis pendens against the interest of a relict, heir, or devisee in the lands of a deceased registered owner, prior to the registration of the title of such relict, heir, or devisee, only can be obtained by filing or recording the proper papers with the assistant registrar as in other cases, and the assistant registrar making entry thereof as a memorial on the registered certificate of title of the deceased owner, giving the name[,] and residence[,] or post office address of the relict, heir, or devisee against whom the lien, charge, or lis pendens is to operate.”

SECTION 47. Section 510-26, Hawaii Revised Statutes, is amended to read as follows:

“**§510-26 Purchaser for value or lender.** (a) If a surviving spouse has apparent title to property to which this part applies, a purchaser for value or a lender taking a security interest in the property takes the purchaser’s or lender’s interest in the property free of any rights of the personal representative or an heir or devisee of the decedent.

(b) If a personal representative or an heir or devisee of the decedent has apparent title to property to which this part applies, a purchaser for value or a lender taking a security interest in the property takes the purchaser’s or lender’s interest in the property free of any rights of the surviving spouse.

A purchaser for value or a lender need not inquire whether a vendor or borrower acted properly with respect to property to which this part applies.

[(d)] (c) The proceeds of a sale of or creation of a security interest in property to which this part applies shall be treated in the same manner as the property transferred to the purchaser for value or a lender.”

SECTION 48. Section 514A-47, Hawaii Revised Statutes, is amended to read as follows:

“**§514A-47 Cease and desist orders.** In addition to its authority under section 514A-48, whenever the real estate commission has reason to believe that any person is violating or has violated sections 514A-2, 514A-31 to 514A-39, 514A-41, 514A-42, 514A-44 to 514A-49, 514A-62 to [514A-66,] 514A-65, 514A-68, 514A-69, 514A-84, and 514A-85 or the rules of the commission adopted pursuant thereto, it shall issue and serve upon such person a complaint stating its charges in that respect, containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of the complaint. The person so complained of has the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring the person to cease and desist from the violation of the law charged in the complaint. If upon the hearing the commission is of the opinion that this chapter has been or is being violated, it shall make a report in writing, in which it shall state its findings as to the facts, and shall issue and cause to be served on the person an order requiring the person to cease and desist from such violations. The person complained of may, within thirty days after service upon the person of the report or order, obtain a review thereof in the appropriate circuit court.”

SECTION 49. Section 514A-89, Hawaii Revised Statutes, is amended to read as follows:

**“§514A-89 Certain work prohibited.** No apartment owner shall do any work which could jeopardize the soundness or safety of the property, reduce the value thereof, or impair any easement or hereditament, nor may any apartment owner add any material structure or excavate any additional basement or cellar, without in every such case the consent of seventy-five per cent of the apartment owners, together with the consent of all apartment owners whose apartments or limited common elements appurtenant thereto are directly affected, being first obtained; provided that nonmaterial structural additions to the common elements, including, without limitation, the installation of solar energy devices [as defined by section 468B-1], or additions to or alterations of an apartment made within such apartment or within a limited common element appurtenant to and for the exclusive use of the apartment shall require approval only by the board of directors of the association of apartment owners and such percentage, number, or group of apartment owners as may be required by the declaration or bylaws. “Non-material structural additions to the common elements”, as used [herein, shall mean] in this section, means a structural addition to the common elements which does not jeopardize the soundness or safety of the property, reduce the value thereof, impair any easement or hereditament, detract from the appearance of the project, interfere with or deprive any non-consenting owner of the use or enjoyment of any part of property, or directly affect any non-consenting owner. For purposes of this section, “solar energy device” means any new identifiable facility, equipment, apparatus, or the like which makes use of solar energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for its generation; provided that if the equipment sold cannot be used as a solar device without its incorporation with other equipment, it must be installed in place and ready to be made operational in order to qualify as a “solar energy device”.”

SECTION 50. Section 533-16, Hawaii Revised Statutes, is amended to read as follows:

**“§533-16 Curtesy; election between curtesy and will.** In case the wife dies first and intestate, then except as in this section provided, her property shall immediately descend to her heirs, but shall be in all cases, whether she die testate or intestate, subject to a life interest in the husband in one-third of the wife’s lands owned by her in fee simple, in freehold, or in leasehold, at the date of her death. The husband shall also, whether the wife die testate or intestate, be entitled, by way of curtesy to an absolute property in the one-third part of it all the wife’s remaining property owned by her at the date of her death, after the payment of all her just debts. During the life of the wife the husband shall have no curtesy right inchoate or otherwise in the wife’s property. If any provisions are made for the widower in the will of his wife, he shall be subject to the same requirements with respect to election between his curtesy and the provisions of the will, or taking under both, as is a widow in similar circumstances under sections [533-14 and 533-15.] 560:2-205 to 560:2-207.

No husband who has, for one year or upwards, previous to the death of his wife, wilfully and utterly deserted his wife, or wilfully neglected or refused to provide suitable maintenance for his wife, shall be entitled to any right or interest in his wife’s property by way of curtesy.

The interests to which the husband is entitled in accordance with this section in the wife’s real and personal property shall not apply to, and nothing in this section shall be deemed to give the husband any interest in, the wife’s interest in community property, real or personal.”

SECTION 51. Section 554A-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If the duty of the trustee and the trustee’s individual interest or the trustee’s interest as trustee of another trust, conflict in the exercise of a trust power, the power may be exercised only by court authorization (except as provided in section 554A-3(c)(1), [(4), (6), (18),] (5), (17), and [(24)] (23)) upon petition of the trustee. Under this section, personal profit or advantage to an affiliated or subsidiary company or association is personal profit to any corporate trustee.”

SECTION 52. Section 560:1-201, Hawaii Revised Statutes, is amended by amending the definition of “trust” to read:

- “(50) “Trust” includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. “Trust” excludes other constructive trusts, and it excludes resulting trusts, guardianships, personal representatives, trust accounts as defined in Article VI, custodial arrangements pursuant to chapter [553,] 553A, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.”

SECTION 53. Section 560:3-301, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Applications for informal probate or informal appointment shall be directed to the registrar, and shall be verified by the applicant to be accurate and complete to the best of the applicant’s knowledge and belief as follows:

- (1) Every application for informal probate of a will and appointment of a personal representative or for informal appointment of a personal representative in the case of intestacy, other than a special or successor representative, shall contain the following:
  - (i) A statement of the interest of the applicant;
  - (ii) The name, and date of death of the decedent, the decedent’s date of birth, and the county and state of the decedent’s domicile at the time of death, and, so far as known or ascertainable with reasonable diligence by the applicant, the names and addresses of the spouse, children, heirs, and devisees and the dates of birth of any who are minors;
  - (iii) If the decedent was not domiciled in the State at the time of the decedent’s death, a statement showing venue;
  - (iv) A statement identifying and indicating the address and state in which appointed of any personal representative of the decedent whose appointment has not been terminated;
  - (v) A statement indicating whether the applicant has received a demand for notice, or is aware of any demand for notice of any probate or appointment proceeding concerning the

- decedent that may have been filed in this State or elsewhere, and, as to any such demand the names and addresses of the demandants;
- (vi) A statement indicating that the time limit for informal probate proceedings as provided in section 560:3-108 has not expired;
  - (vii) A statement of the nature and value of the estate of the decedent subject to probate proceedings in this State;
  - (viii) A statement setting forth any request known to the applicant for homestead allowance, exempt property (in which case the specific items of property and their value shall be itemized) and family allowance under Article II, Part 4;
  - (ix) The name, address, and priority of appointment of the person whose appointment as personal representative is sought, a statement that the nominee is qualified to serve as such under section 560:3-601, and the names of any other persons having a prior or equal right to appointment under section 560:3-203; and
  - (x) If there are any persons listed under subparagraph (ix) [above] who have a prior or equal right to appointment, a statement in which they renounce their priority or concur in the nomination of the person seeking appointment.
- (2) An application for informal probate of a will and appointment of a personal representative shall state the following in addition to the statements required by paragraph (1):
- (i) That the original of the decedent's last will is in the possession of the court, or accompanies the application, or that an authenticated copy of a will probated in another jurisdiction accompanies the application;
  - (ii) That the applicant, to the best of the applicant's knowledge, believes the will to have been validly executed;
  - (iii) That after the exercise of reasonable diligence, the applicant is unaware of any instrument revoking the will; and
  - (iv) That the applicant believes that the instrument which is the subject of the application is the decedent's last will and is not one of a series of testamentary instruments, the latest of which does not expressly revoke the earlier.
- (3) An application for informal appointment of a personal representative in the case of intestacy shall state in addition to the statements required by paragraph (1) that, after exercise of reasonable diligence, the applicant is unaware of any unrevoked testamentary instrument relating to property having a situs in this State under section 560:1-301, or, a statement why any such instrument of which the applicant may be aware is not being probated.
- (4) An application for appointment of a personal representative to succeed a personal representative who has tendered a resignation as provided in section [560:3-610(c),] 560:3-610(b), or whose appointment has been terminated by death or removal, shall adopt the statements in the application which led to the appointment of the person being succeeded except as specifically changed or corrected, state the name and address of the person who seeks appointment as successor, and describe the priority of the nominee."

SECTION 54. Section 560:3-302, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Upon receipt of an application requesting informal probate of a will, the registrar, upon making the findings required by section 560:3-303, shall issue a written statement admitting the will to informal probate, granting any request for statutory allowances and exempt property, and appointing a personal representative subject to acceptance if at least fourteen days have passed after the last mailing or other delivery of notice, if proof that notice has been given is filed with the registrar and if no petition for formal testacy proceedings has been filed; provided, however, if published notice is required by section [560:1-401(a)(3),] 560:1-401(a)(2), the registrar shall delay any action hereunder until the later of fourteen days after the last mailing or other delivery of notice or forty days after the first publication of notice.”

SECTION 55. Section 560:3-308, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Unless section 560:3-612 controls, the application shall be denied if it indicates that a personal representative who has not filed a written statement of resignation as provided in section [560:3-610(c)] 560:3-610(b) has been appointed in this or another judicial circuit of this State, that (unless the applicant is the domiciliary personal representative or the domiciliary personal representative’s nominee) the decedent was not domiciled in this State, and that a personal representative whose appointment has not been terminated has been appointed by a court in the [State] state of domicile, or that other requirements of this section have not been met.”

SECTION 56. Section 560:3-414, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A formal proceeding for adjudication regarding the priority or qualification of one who is an applicant for appointment as personal representative, or of one who previously has been appointed personal representative in informal proceedings, if an issue concerning the testacy of the decedent is or may be involved, is governed by section 560:3-402, as well as by this section. In other cases, the petition shall contain or adopt the statements required by section [560:3-301(1)] 560:3-301(b)(1) and describe the question relating to priority or qualification of the personal representative which is to be resolved. If the proceeding precedes any appointment of a personal representative, it shall stay any pending informal appointment proceedings as well as any commenced thereafter. If the proceeding is commenced after appointment, the previously appointed personal representative, after receipt of notice thereof, shall refrain from exercising any power of administration except as necessary to preserve the estate or unless the court orders otherwise.”

SECTION 57. Section 571-2, Hawaii Revised Statutes, is amended by amending the definition of “status offender” to read:

““Status offender” means any child coming within the family court’s jurisdiction under section [571-11(2)(D), (E), or (F).] 571-11(2)(B), (C), or (D). Such child is distinguished from (A) a law violator under section 571-11(1) who comes into the family court upon allegations such person has committed an act which would constitute a crime if committed by an adult, and (B) a neglected [or abused] child under section [571-11(2)(A), (B) or (C).] 571-11(2)(A).”

## ACT 283

The singular includes the plural, the plural the singular, and the masculine the feminine, when consistent with the intent of this chapter.”

SECTION 58. Section 571D-1, Hawaii Revised Statutes, is amended to read as follows:

“§571D-1 **Juvenile justice interagency board.** There is established within the department of the attorney general for administrative purposes the juvenile justice interagency board, consisting of nine members which shall include a police chief of one of the counties, the prosecuting attorney of a county, a representative from a private social service agency, and two additional members, all appointed by the governor as provided in section 26-34, and the superintendent of education, the public defender, the director of social services, and the senior judge of the first circuit family court as ex officio members. The composition of the board shall include a resident member from each county in the State.

The attorney general shall designate the executive secretary of the board.”

SECTION 59. Section 573-8, Hawaii Revised Statutes, is amended to read as follows:

“§573-8 **Marriage settlement not invalidated.** Nothing contained in sections 572-22 to 572-24, 573-1 [to 573-7] or 573-3 to 573-5 shall invalidate any marriage settlement or contract.”

SECTION 60. Section 622-52, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [Except as provided in section 622-55, whenever] Whenever a subpoena duces tecum is served upon the custodian of medical records or other qualified witness from a medical facility, in an action or other proceeding on a claim for personal injuries in which the custodian or the custodian’s employer is neither a party to the action or proceeding nor is it alleged that the claim arose at the medical facility, and such subpoena requires the production in court, or before an officer, board, commission, or tribunal, of all or any part of the medical records of a patient who is or has been cared for or treated at the medical facility, it shall be sufficient compliance therewith if the custodian or other qualified witness within five days after receipt of such subpoena, delivers by registered or certified mail or by messenger a true and correct copy (which may be by any method described in [section 622-3]) rule 1001(4), Hawaii Rules of Evidence of all the medical records described in such subpoena to the clerk of the court or the clerk’s deputy authorized to issue it, together with the affidavit described in section 622-53.”

SECTION 61. Section 622-56, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) If more than one subpoena duces tecum is served upon the custodian or other qualified witness from a medical facility and the personal attendance of that person is required [pursuant to section 622-55], the witness shall be deemed to be the witness of the party serving the first subpoena.”

SECTION 62. Section 634-36, Hawaii Revised Statutes, is amended to read as follows:

“§634-36 **Manner of service under sections 634-33 to 35.** When service of summons is provided for by section 634-33, 634-34, or 634-35, service shall be made by service upon the defendant personally by any person

authorized to serve process in the place in which the [person] defendant may be found or appointed by the court for the purpose, or sent by certified or registered mail, postage prepaid, with return receipt requested, by the plaintiff or the plaintiff's attorney to the defendant. The plaintiff or the plaintiff's attorney shall file the return of the serving officer or an affidavit showing that the copy of summons and complaint were served as aforesaid or sent by certified or registered mail as aforesaid, and in the latter case the return receipt signed by the defendant shall be filed with the affidavit. The service shall be deemed complete upon delivery of the required papers to the defendant outside the State, personally or by mail as provided.

If the defendant cannot be found to serve or mail the summons and the facts shall appear by affidavit or otherwise to the satisfaction of the court, it may order that service be made by publication of summons in at least one newspaper published in the State and having a general circulation in the circuit in which the action has been instituted, in such manner and for such time as the court may order, but not less than once each week in four successive weeks, the last publication to be not less than twenty-one days prior to the return date stated therein unless a different time is prescribed by order of the court."

SECTION 63. Section 669-2, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) In any action brought under section 669-1, the State may be joined as a defendant only when:

- (1) It is an adjoining property owner and the same is alleged by the plaintiff, or
- (2) The party asserting the claim can demonstrate, by a title search prepared at the party's own expense by an abstractor [licensed in the State], that the State has a clear and specific interest in the subject matter of the suit which is adverse to the plaintiff's claim, and a copy of [said] the title search is furnished to the State without cost, together with the complaint."

SECTION 64. Section 671-1, Hawaii Revised Statutes, is amended by amending the definition of "health care provider" to read as follows:

- "(1) "Health care provider" means a physician or surgeon licensed under chapter 453, [a physician or] a physician and surgeon licensed under chapter 460, a health care facility as defined in section 323D-2, and the employees of any of them. Health care provider shall not mean any nursing institution or nursing service conducted by and for those who rely upon treatment by spiritual means through prayer alone, or employees of such institution or service."

SECTION 65. Section 671-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A medical claim conciliation panel shall be formed for each claim filed pursuant to section 671-12 and after each panel renders its decision or the claim is otherwise disposed of it shall be disbanded. Each medical claim conciliation panel shall consist of one chairperson selected from among persons who are familiar with and experienced in the personal injury claims settlement process, one attorney licensed to practice in the courts of the State and experienced in trial practice, and one physician or surgeon licensed to practice under chapter 453 or chapter 460. The chairperson shall be appointed by the chief justice of the supreme court of Hawaii. The

## ACT 283

attorney shall be appointed by the chairperson from a list of not less than thirty-five attorneys experienced in trial practice submitted annually by the supreme court. The physician or surgeon shall be appointed by the chairperson from a list of not less than thirty-five physicians or surgeons licensed under chapter 453 submitted annually by the board of medical examiners or from a list of not less than eight [physicians or] physicians and surgeons licensed under chapter 460 submitted annually by the board of osteopathic examiners.

The chairperson shall preside at the meetings of the panel. The chairperson and all panel members shall be compensated at the rate of \$100 per claim handled which will become payable when the decision of the panel is submitted and shall be paid allowances for travel and living expenses which may be incurred as a result of the performance of their duties on the panel. Such costs shall be paid by the department of commerce and consumer affairs.

The office and meeting space, secretarial and clerical assistance, office equipment, and office supplies for the panel shall be furnished by the department.

The board of medical examiners and board of osteopathic examiners shall each prepare a list of physicians, surgeons, or physicians and surgeons, as the case may be, along with their respective specialties who shall then be considered consultants to the panel in their respective fields. Panel members may consult with other legal, medical, and insurance specialists. Any consultant called by the panel to appear before the panel shall be paid an allowance for travel and living expenses which may be incurred as a result of such person's appearance before the panel. Such costs shall be paid by the department."

SECTION 66. Section 802-10, Hawaii Revised Statutes, is repealed.

SECTION 67. Section 806-56, Hawaii Revised Statutes, is amended to read as follows:

**"§806-56 Nolle prosequi.** No nolle prosequi shall be entered in a criminal case in a court of record except by consent of the court upon written motion of the prosecuting attorney stating the reasons [therefore.] therefor. The court may deny the motion if it deems the reasons insufficient and if, upon further investigation, it decides that the prosecution should continue, it may, if in its opinion the interests of justice require it, appoint a special prosecutor to conduct the case and allow the special prosecutor a fee. [The proviso of section 801-5] Section 802-5(b) relative to fees allowed counsel assigned by the court for a defendant is made applicable to fees of special prosecutors appointed hereunder."

SECTION 68. Act 320, Session Laws of Hawaii 1986, is amended by amending section 8 to read as follows:

**"SECTION 8.** This Act shall take effect on July 1, 1986, and be repealed as of June 30, 1989[.]; provided that on repeal sections 37-34, 37-35, 37-36, 37-37, and 37-74, Hawaii Revised Statutes, are reenacted in the form in which they read on June 30, 1986."

SECTION 69. Act 321, Session Laws of Hawaii 1986, is amended by amending section 12 to read as follows:

**"SECTION 12.** This Act shall take effect on July 1, 1986, and be repealed as of June 30, 1989[.]; provided that on repeal sections 40-1, 40-2,



40-4, 40-6, 40-81, and 103-23, Hawaii Revised Statutes, are reenacted in the form in which they read on June 30, 1986."

SECTION 70. Act 342, Session Laws of Hawaii 1986, is amended by amending section 9 to read as follows:

"SECTION 9. This Act shall take effect on October 1, 1986, and shall be repealed as of September 30, 1991[.]; provided that on repeal sections 281-1, 281-78, 294-13, 712-1250.5, and 712-1252, Hawaii Revised Statutes, are reenacted in the form in which they read on September 30, 1986."

SECTION 71. This Act shall be amended to conform to all other acts passed by the legislature during this Regular Session of 1987, whether enacted before or after the effective date of this Act, unless such other acts specifically provided otherwise.

SECTION 72. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 73. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 284

S.B. NO. 1201

A Bill for an Act Relating to Monetary Laundering.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by amending a new section<sup>1</sup> to be appropriately designated and to read as follows:

**§708- Monetary laundering.** (1) Any person who conducts or attempts to conduct a transaction involving a monetary instrument or instruments of a value exceeding \$5,000 through a financial institution (a) with the intent to promote, manage, establish, carry on, conceal, disguise, or facilitate the promotion, management, establishment, carrying on, concealment, or disguising of any criminal activity, or (b) knowing that the monetary instrument represents the proceeds of, or is derived directly or indirectly from the proceeds of, criminal activity, is guilty of the crime of money laundering.

(2) Money laundering is a class C felony.

**§708- Definition of terms.** In this part, unless a different meaning plainly is required:

"Conducts" means to initiate, conclude or participate in conducting, initiating or concluding a transaction.

"Transaction" means the deposit, withdrawal, transfer, bailment, loan, pledge, payment, or exchange of monetary instrument.

"Monetary instrument" means U.S. and foreign currency, bank checks, cashier's checks, traveler's checks, money orders and other bearer instruments, as well as precious metals and stones.

"Financial institution" means any kind of business or enterprise which might be expected to receive or transact large sums of cash or monetary instruments.

## ACT 285

“Criminal activity” means any felony in the State, as well as any crime punishable anywhere by imprisonment for more than one year.”

SECTION 2. New statutory material is underscored.<sup>2</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 285

S.B. NO. 1278

A Bill for an Act Relating to Psychology.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 465, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§465- Licensure; educational requirements. Notwithstanding section 465-7(2), an applicant for licensure may be held to satisfy the requirements of that section if the following conditions are met:

- (1) The doctoral degree was conferred and the applicant filed an application with the board in 1985;
- (2) The doctoral degree conferred in 1985 was from a training program approved by the American Psychological Association (APA) or from a regionally accredited institution of higher education and also meets the experiential requirements for inclusion in the National Register of Health Service Providers in Psychology; provided that the applicant whose doctoral degree was conferred and application filed with the board in 1985 shall be permitted to meet this requirement by providing documents and evidence adequate to the satisfaction of the board to establish that the applicant’s formal education is equivalent to a doctoral degree in psychology granted by a regionally accredited institution of higher education. The board shall consider the certification of the graduate division of the University of Hawaii that the applicant’s degree is equivalent to a doctoral degree granted from a regionally accredited institution.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval and shall be repealed on June 30, 1990.

(Approved June 25, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 286

S.B. NO. 1284

A Bill for an Act Relating to Credit Life Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431-573, Hawaii Revised Statutes, is amended to read as follows:

**“§431-573 Debtor groups.** The lives of a group of individuals may be insured under a policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

- (1) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term debtors shall include the debtors of one or more subsidiary corporations, and the debtors of one or more affiliated corporations, proprietors, or partnerships, if the business of the policyholder and of such affiliated corporations, proprietors, or partnerships, is under common control through stock ownership, contract, or otherwise.
- (2) The premiums for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premiums is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five per cent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- (3) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred persons yearly, or may reasonably be expected to receive at least one hundred new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five per cent of the new entrants become insured.
- (4) The initial amount of credit life insurance shall not exceed the total amount repayable under the contract of indebtedness [or \$20,000, whichever is less]. Where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater, except that if the sole purpose of the loan is to provide future advances to the debtor to meet education or education-related expenses of the debtor, the debtor's spouse, children or other dependents, the amount of insurance may equal, but may not exceed, the total amount of the described expenses forecast at the time of entry into the loan agreement with the creditor, less the amount of all repayments by the debtor. In the case of revolving loan or revolving charge accounts, the insurance shall at no time exceed the unpaid indebtedness.

ACT 287

- (5) The insurance shall be payable to the policyholder to reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment and, whenever the amount of insurance exceeds the unpaid indebtedness, any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to the debtor's estate.
- (6) Payment by the debtor insured under any such group life insurance contract of an amount not in excess of the premium charged ~~[[the]]~~ creditor by the insurer for such insurance pertaining to the debtor, shall not be deemed to constitute a charge upon a loan in violation of any banking or usury law or any law regulating installment sales."

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

ACT 287

S.B. NO. 1395

A Bill for an Act Relating to No-Fault Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 294-12.6, Hawaii Revised Statutes, is amended to read as follows:

**"§294-12.6 Motorcycles and motor scooters excluded from chapter. (a)** All motorcycles and motor scooters required to be registered under chapter 286 shall be exempt from chapter 294; provided that:

- (1) No person shall drive a motorcycle or motor scooter upon any public street, road, or highway of this State at any time unless such vehicle is insured at all times under a liability insurance policy as provided in this section; and
- [(2)] In the case of accidental harm arising out of a motorcycle or motor scooter accident to any passenger of such motorcycle or motor scooter, or any pedestrian, motorcycles and motor scooters shall not be exempt from sections 294-4, 294-6, and 294-10;
- (3)] (2) In the case of accidental harm arising out of an accident involving a motorcycle or motor scooter and a motor vehicle, the owner or operator of a motorcycle or motor scooter shall not be exempt from section 294-6.

(b) The insurance policy required under this section shall provide insurance to pay on behalf of the owner or any operator of the insured vehicle sums which the owner or operator may legally be obligated to pay for injury, death, or damage to the property of others, except property owned by, being transported by, or in the charge of the insured which arise out of the ownership, operation, maintenance, or use of the vehicle:

- (1) Liability coverage of not less than ~~[\$25,000]~~ \$35,000 for all damages arising out of accidental harm sustained by any one person as a result of any one accident applicable to each person sustaining accidental harm; and
- (2) Liability coverage of not less than \$10,000 for all damages arising out of injury to or destruction of property including motor vehicles and including the loss of use thereof, but not

including property owned by, being transported by, or in the charge of the insured, as a result of any one accident.

(c) At the option of the owner, each insurer shall:

- (1) Offer medical payment coverage up to \$15,000 to pay all reasonable expenses incurred within one year from the date of accident for necessary medical, surgical, and dental services, and necessary ambulance, hospital, professional nursing, and funeral services; [and]
- (2) Offer an income disability plan[.]; and
- (3) Offer liability coverage in excess of the minimum coverages required by subsection (b).

(d) Any person seeking to obtain the liability coverage required by this section after January 1, 1988 shall first:

- (1) Have obtained a valid motorcycle or motor scooter license; or
- (2) Have obtained a valid motorcycle or motor scooter learner's permit and have taken and passed a motorcycle education course approved by the department of transportation.

(e) All insurers of any motorcycle or motor scooter shall provide a fifteen per cent reduction off premium charges each insurer assesses for each new and renewal policy for liability coverage issued pursuant to this section if the applicant has successfully completed a motorcycle education course approved by the department of transportation as provided in subsection (d).

[(d)] (f) Every insurer shall issue to its insureds, for each motorcycle or motor scooter for which a liability policy under this section is written, a proof of insurance card showing the name, make, year, and factory or serial number of the motorcycle or motor scooter, policy number, names of the insured and the insurer, and the effective dates of coverage including the expiration date; provided that insurers of five or more motorcycles or motor scooters which are under common registered ownership and used in the regular course of business shall not be required to indicate the name, make, year, and the factory or serial number of each motorcycle or motor scooter. The proof of insurance card shall be carried on the person operating the insured motorcycle or motor scooter or in the insured motorcycle or motor scooter at all times and shall be exhibited to a law enforcement officer upon demand.

[(e)] (g) Any person who violates this section shall be subject to a citation by the police and shall be subject to a nonsuspendable fine of not less than \$100, or more than \$1,000, or thirty days imprisonment, or a one-year driver's license suspension or any combination thereof, for each violation."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

A Bill for an Act Relating to Wages and Hours on Public Works.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The purpose of this Act is to require all contractors who submit bids on public works projects to bid on those

## ACT 288

projects pursuant to standards which are fair and equitable and fairly and equitably applied.

Under federal law, all contractors who bid on federal public works projects are required to pay fringe benefits for overtime work. The requirement places all contractors at the same starting gates before the bidding, without any one contractor having an unfair advantage over another. Like the federal law, the State law should provide no special advantages to one contractor over another on bids submitted on public works projects.

SECTION 2. Section 104-1, Hawaii Revised Statutes, is amended to read as follows:

**“§104-1 Definitions.** As used in this chapter, the following words and phrases shall have the following meanings:

- (1) “Basic hourly rate” means the hourly wage paid to a laborer or mechanic for work performed during non-overtime hours, but shall not include the cost to an employer of furnishing fringe benefits whether paid directly or indirectly to the laborer or mechanic as provided in subsection (5);
- (2) “Construction” includes alteration, repair, painting and decorating;
- (3) “Director” means the director of labor and industrial relations of the State;
- (4) “Governmental contracting agency” means the State, any county<sup>1</sup> and any officer, bureau, board, commission, or other agency or instrumentality thereof;
- (5)<sup>1</sup> “Overtime compensation” means compensation based on one and one-half times the laborers or mechanics basic hourly rate of pay plus the cost to an employer of furnishing a laborer or mechanic with fringe benefits as described in subsection (6);
- [(5)] (6) “Wages”, “rate of wages”, “wage rates”, “minimum wages” and “prevailing wages” mean the basic hourly rate and the cost to an employer of furnishing a laborer or mechanic with fringe benefits, including but not limited to health and welfare benefits, vacation benefits, and pension benefits, whether paid directly or indirectly to the laborer or mechanic.”

SECTION 3. Section 104-2, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The contract and specifications shall contain the provision that no laborer or mechanic employed on the job site of any public work of the State or any political subdivision thereof shall be permitted or required to work on Saturday, Sunday, or a legal holiday of the State or in excess of eight hours on any other day unless the laborer or mechanic receives overtime compensation for all hours worked on Saturday, Sunday, and a legal holiday of the State or in excess of eight hours on any other day [at a rate not less than one and one-half times the laborer’s or mechanic’s basic hourly rate of pay]. For purposes of determining overtime compensation under this subsection, the basic hourly rate of any laborer or mechanic shall not be less than the basic hourly rate determined by the director to be the prevailing basic hourly rate for corresponding classes of laborers and mechanics on projects of similar character in the State.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

## SECTION 5. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

## Note

1. So in original.

## ACT 289

S.B. NO. 1431

A Bill for an Act Relating to the Hearing Impaired.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There are approximately sixty thousand persons in the State of Hawaii who are hearing impaired. Of this population, an estimated four thousand five hundred have a severe or profound bilateral hearing loss.

The legislature finds that a state coordinating council on deafness exists within the department of social services and housing. The council was established in response to House Resolution No. 194, Regular Session of 1980, and serves to provide better communication, coordination, and access to services for hearing impaired persons. The council, however, operates without funds or staff.

The purposes of this Act are to establish a state coordinating council on deafness by statute and to appropriate moneys for the operation of the council.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
HAWAII STATE COORDINATING COUNCIL ON  
DEAFNESS**

**§ -1 Hawaii State coordinating council on deafness; establishment.**

(a) There is established a Hawaii state coordinating council on deafness within the department of social services and housing for administrative purposes. The council shall consist of:

- (1) Seven representatives of state agencies, including the departments of health, education, labor and industrial relations, social services and housing, personnel services, the University of Hawaii, and the office of the governor;
- (2) Seven members who are hearing impaired or who are immediate family members of hearing impaired persons; and
- (3) Seven members of the public who have an interest in hearing impaired persons.

(b) Members shall be appointed by the governor without the necessity of the advice and consent of the senate and shall serve at the pleasure of the governor.

(c) Members shall elect the officers of the council.

(d) Members shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

§ -2 **General duties.** In addition to the duties regarding interpreter services under this chapter, the council shall compile information on the hearing impaired population, advocate for the hearing impaired, develop

## ACT 290

and monitor programs for hearing impaired persons, and act to establish better communication and coordination among public and private agencies concerning access to services by hearing impaired persons.

§ -3 **Responsibility of council for interpreter services.** The council shall establish guidelines for the utilization of interpreter services by hearing impaired persons in state programs and activities, including the qualifications of persons who may receive the services, the qualifications of interpreters who may provide services, and the amount of payments to interpreters. The guidelines shall be consistent with Section 504 of the federal Rehabilitation Act of 1973, P.L. 93-112, as amended, for state programs and activities which receive federal financial assistance.

§ -4 **Responsibility of council for payment of interpreter services.** The council, subject to legislative appropriations, shall coordinate the payment of interpreter services for hearing impaired persons when participating in state programs and activities which do not receive federal financial assistance.

§ -5 **Staff.** The council may appoint staff necessary for the purposes of this chapter. The staff shall be exempt from chapters 76 and 77.

§ -6 **Rules.** The council may adopt rules in accordance with chapter 91 for the purposes of this chapter."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$58,000, or so much thereof as may be necessary for fiscal year 1987-1988, to be distributed as follows:

- (1) \$38,000 shall be used to hire a program specialist and an account clerk for the state coordinating council on deafness;
- (2) \$10,000 shall be used for operating expenses of the Hawaii state coordinating council on deafness; and
- (3) \$10,000 shall be used for the cost of interpreter services for state programs and activities which do not receive federal financial participation.

The sum appropriated shall be expended by the department of social services and housing for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1987.

(Approved June 25, 1987.)

## ACT 290

S.B. NO. 1435

A Bill for an Act Relating to Psychology.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated to read as follows:

"§346- **Psychological services.** When the health care or rehabilitative services authorized under this chapter are services which a psychologist is licensed to render under chapter 465, the department shall not require referral, direction, or prescription of services by another health care practitioner."

SECTION 2. Section 346-59, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:



“(b) Rates of payment to providers of medical care who are individual practitioners, including doctors of medicine, [dentistry, podiatry, osteopathy, optometry,] dentists, podiatrists, psychologists, osteopaths, optometrists, and other individuals providing services, shall be based upon the profile, or adjusted profile, of usual and customary fees selected by the legislature as the basis of the appropriation for such care for any fiscal year. The amounts paid shall not exceed the maximum permitted to be paid individual practitioners or other individuals under federal law and regulation and shall not exceed the reasonable charge under the medicare program, based on the same profile base year selected by the legislature for the medicaid profiles, the state limits as provided in the appropriation act, and the provider’s billed amount.

The appropriation act shall indicate the profile used as the basis for the appropriation of each fiscal year. If that profile has been adjusted by the legislature, the legislature shall specify the extent of the adjustment in the appropriation act.”

SECTION 3. Section 346-71, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A disabled person between eighteen and sixty-five years of age shall be eligible for general assistance, if the person:

- (1) Is determined to be needy in accordance with standards established by this chapter and the rules and regulations of the department;
- (2) Is unable to meet the requirements established by the Federal Supplemental Security Income Program or its successor agency; and
- (3) (A) Is unable to engage in any substantial gainful employment because of a determined and certified physical or mental impairment [determined and certified by a licensed physician]. A determination and certification of physical impairment shall only be made by a licensed physician. A determination and certification of mental impairment [may only] shall be made by a licensed physician whose specialty is in psychiatry[,] or by a licensed psychologist. The department may require that such determination and certification be by a [licensed physician] psychiatrist or a psychologist designated and paid by the department. The department shall accept applications from psychiatrists and psychologists to conduct the examination for mental impairment. Psychiatrists and psychologists shall be assigned cases on a rotating basis.
- (B) When a determination of mental impairment is made, the person shall enter into out-patient treatment with the psychiatrist, psychologist, or mental health clinic of the person’s choice; provided that the professional who made the determination of mental impairment shall be ineligible to provide the treatment or care. The out-patient treatment shall include a medical evaluation to eliminate the possibility that the mental impairment is due to a physical illness.
- (C) Any person, to continue to be certified as mentally impaired, shall be reevaluated annually as provided by this section and more frequently as required by the department.

**ACT 291**

“Substantial” as the term is used herein means at least thirty hours of work per week. “Disabled” as the term is used herein means disability which extends for a period of over thirty days.

Any person determined to be eligible under this subsection may be referred to any appropriate state agency for vocational rehabilitation services and shall be required to accept the services as a further condition of eligibility for the receipt of general assistance under this section. An assistance unit shall be determined ineligible for general assistance if any adult member of the assistance unit fails to cooperate with any appropriate state agency for vocational rehabilitation services after being referred for services. Any person found eligible under this subsection may also be required to seek employment, and participate in public work projects as described in section 346-31, and in public employment projects as described in section 346-102.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 291**

**S.B. NO. 1500**

A Bill for an Act Relating to the Employees' Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-122, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The actuarial valuations made for years ending<sup>1</sup> June 30, [1985 and 1986] 1987 and 1988 shall be based on an eight per cent investment yield rate and such tables and factors as are adopted by the board of trustees for actuarial valuations of the system.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

**Note**

1. So in original.

**ACT 292**

**S.B. NO. 1627**

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237-24, Hawaii Revised Statutes, is amended to read as follows:

**“§237-24 Amounts not taxable.** This chapter shall not apply to the following amounts:

- (1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured;
- (2) Amounts received (other than amounts paid by reason of death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract;
- (3) Amounts received under any accident insurance or health insurance policy or contract or under workers' compensation acts or employers' liability acts, as compensation for personal injuries, death, or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of the personal injuries, death, or sickness;
- (4) The value of all property of every kind and sort acquired by gift, bequest, or devise, and the value of all property acquired by descent or inheritance;
- (5) Amounts received by any person as compensatory damages for any tort injury to the person, or to the person's character reputation, or received as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties (provided that amounts received as punitive damages for tort injury or breach of contract injury shall be included in gross income);
- (6) Amounts received as salaries or wages for services rendered by an employee to an employer;
- (7) Amounts received as alimony and other similar payments and settlements;
- (8) Amounts collected by distributors as fuel taxes on "liquid fuel" imposed by chapter 243, and the amounts collected by such distributors as a fuel tax imposed by any act of the Congress of the United States;
- (9) Taxes on liquor imposed by chapter 244D on dealers holding permits under that chapter;
- (10) The amounts of taxes on tobacco products imposed by chapter 245 on wholesalers or dealers holding licenses under that chapter and selling the products at wholesale, and the amounts of taxes on tobacco products collected from a wholesaler by another where the wholesaler makes separate charges for the amounts so collected from the wholesaler and collects the same from those purchasing from the wholesaler as provided by chapter 245;
- (11) Federal excise taxes imposed on articles sold at retail and collected from the purchasers thereof and paid to the federal government by the retailer;
- (12) The amounts of federal taxes under chapter 37 of the Internal Revenue Code, or similar federal taxes, imposed on sugar manufactured in the State, paid by the manufacturer to the federal government;
- (13) An amount up to, but not in excess of, \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging, or continuing, in any business, trade, activity, occupation, or calling within the State;

- (14) Amounts received by an organization enumerated under section 237-23(a)(5) to (8) from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
- (15) Amounts received by a producer of sugarcane from the manufacturer to whom the producer sells the sugarcane, where (A) the producer is an independent cane farmer, so classed by the secretary of agriculture under the Sugar Act of 1948 (61 Stat. 922, Chapter 519) as the Act may be amended or supplemented, and (B) the value of the sugar, and other products manufactured from the sugarcane, is included in the measure of the tax levied on the manufacturer under section 237-13(1), and (C) the producer's gross proceeds of sales are dependent upon the actual value of the products manufactured therefrom or the average value of all similar products manufactured by the manufacturer, and (D) the producer's gross proceeds of sales are reduced by reason of the tax on the value of the manufactured products;
- (16) Money paid by the State or eleemosynary child-placing organizations to foster parents for their care of children in foster homes;
- (17) Amounts received by a cooperative housing corporation from its shareholders in reimbursement of funds paid by such corporation for lease rental, real property taxes, and other expenses of operating and maintaining the cooperative land and improvements, provided that such a cooperative corporation is a corporation:
  - (A) Having one and only one class of stock outstanding;
  - (B) Each of the stockholders of which is entitled solely by reason of the stockholder's ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building owned or leased by the corporation;
  - (C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation;
- (18) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped for a producer or produce dealer on one island of this State to a person, firm, or organization on another island of this State. The terms "agricultural commodity", "producer", and "produce dealer" shall be defined in the same manner as they are defined in section 147-1;
- (19) Amounts received from sales of (A) intoxicating liquor as defined in chapter 244D, (B) tobacco products as defined in chapter 245, and (C) agricultural, meat, or fish products grown, raised, or caught in Hawaii, when such sales are made to any person or common carrier in interstate or foreign commerce, or both, whether ocean-going or air, for consumption out-of-state by such person, crew, or passengers on such shipper's vessels or airplanes;
- (20) Amounts received by the manager or board of directors of an association of apartment owners of a horizontal property regime established in accordance with chapter 514A in reimbursement of sums paid for common expenses;
- (21) [Any provision of law to the contrary notwithstanding, exemptions or exclusions from tax under this chapter allowed on or

before April 1, 1978, for amounts received by any person or common carrier engaged in interstate or foreign commerce, or both, whether ocean-going or air, shall continue undiminished and be available thereafter to the extent and under the conditions such exemptions or exclusions have theretofore been previously allowed in the State under the provisions of the Constitution of the United States or an act of the Congress of the United States;] Amounts received or accrued from:

- (A) The loading or unloading of cargo from ships, barges, vessels, or aircraft, whether or not the ships, barges, vessels, or aircraft travel between the State and other states or countries or between the islands of the State;
  - (B) Tugboat services including pilotage fees where such services are performed within the State, and the towage of ships, barges, or vessels in and out of state harbors, or from one pier to another; and
  - (C) The transportation of pilots or governmental officials to ships, barges, or vessels offshore; rigging gear; checking freight and similar services; standby charges; and use of moorings and running mooring lines;
- (22) Amounts received by an employee benefit plan by way of contributions, dividends, interest, and other income; and amounts received by a nonprofit organization or office, as payments for costs and expenses incurred for the administration of an employee benefit plan. For the purposes of this paragraph, "employee benefit plan" means any plan as defined in section 1002(3) of title 29 of the United States Code, as amended;
- (23) Amounts received for purchases made with United States Department of Agriculture food coupons if the United States Secretary of Agriculture determines under Public Law 99-198 that the tax imposed by this chapter will disqualify the State of Hawaii from participation in the federal food stamp program. If such a determination is made, and upon being so informed by the United States Secretary of Agriculture, the director of taxation shall immediately inform the general public by public notice of the exempt status;
- (24) Amounts received by a hospital, infirmary, medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual. This paragraph shall not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices. As used in this section: "Prescription drugs" are those drugs required to be prescribed by a practitioner licensed under law to administer the drug and which are dispensed and sold by a licensed pharmacist under section 328-16. "Prosthetic device" means any artificial device or appliance used to replace a missing or surgically removed part of the human body prescribed by a licensed practitioner of medicine, osteopathy, or podiatry; provided that "prosthetic device" shall not mean any auditory, ophthalmic, dental, or ocular device or appliance;
- (25) Taxes on transient accommodations imposed by chapter 237D and passed on and collected by operators holding certificates of registration under that chapter; and

## ACT 293

- (26) Amounts received as dues by an unincorporated merchants association from its membership for advertising media, promotional, and advertising costs for the promotion of the association for the benefit of its members as a whole and not for the benefit of an individual member or group of members less than the entire membership.”

SECTION 3.<sup>1</sup> Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4.<sup>1</sup> This Act shall take effect on July 1, 1987.

(Approved June 25, 1987.)

### Note

1. So in original.

## ACT 293

H.B. NO. 46

A Bill for an Act Relating to Tobacco Products.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** The legislature finds cigarette smoking is hazardous to health. Smoking is directly linked as a cause of such serious health conditions as heart and cardiovascular diseases; lung and respiratory diseases; increased incidences of miscarriage, birth defects, and low birthweight babies born to many mothers who smoke; and many types of cancers. In addition to harming themselves, smokers cause health hazards to non-smokers present in confined areas. It is also well documented that smokeless tobacco products such as snuff and chewing tobacco are associated with oral cancer.

The use of tobacco products is the single most important preventable cause of death and illness in our country. Furthermore, evidence strongly indicates that the earlier a person begins to smoke as a teenager, the less likely that person is to quit smoking as an adult and the more likely that person is to continue through life as a heavy smoker. According to best available estimates, between fifteen per cent and twenty per cent of young people in Hawaii's intermediate and high schools now smoke.

The purpose of this Act is to reduce the number of children and youth who now smoke and to prevent young people who do not yet smoke from taking up the habit.

**SECTION 2.** Section 445,<sup>1</sup> Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§445- Signs. Signs using the statement, “THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER EIGHTEEN IS PROHIBITED”, shall be posted on or near any vending machine in letters at least one-half inch high and at any other location where tobacco products are sold in letters at least one inch high.”

**SECTION 3.** Section 445-212, Hawaii Revised Statutes, is amended to read as follows:

“§445-212 Not to sell to minors. It shall be unlawful to sell or furnish tobacco in any shape or form [whatsoever], including chewing tobacco and snuff, to [minors] persons under the age of [fifteen] eighteen years. It shall

likewise be unlawful for persons under the age of eighteen years to purchase such tobacco products."

SECTION 4. Section 445-213, Hawaii Revised Statutes, is amended to read as follows:

"§445-213 Penalty. Any person violating section 445-212 shall be fined not more than \$100[, and if the offense is committed by any dealer licensed to sell tobacco the dealer after the second offense shall forfeit the dealer's license.] for the first offense. Any subsequent offenses shall subject the person to a fine not less than \$100 nor more than \$1,000. Any person under the age of eighteen violating section 445-212 shall be fined \$10 for the first offense. Any subsequent offense shall subject the violator to a fine of \$50, no part of which shall be suspended, or the person shall be required to perform not less than forty-eight hours nor more than seventy-two hours of community service during hours when the person is not employed and is not attending school."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 6. This Act shall take effect on January 1, 1988.

(Approved June 25, 1987.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 294

H.B. NO. 105

A Bill for an Act Relating to Discrimination in Public Accommodations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 489, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§489- Violations of this chapter.** It shall be unlawful for a person to discriminate unfairly in public accommodations. Violations of this chapter shall be per se violations of section 480-2 and the rights and penalties provided for in sections 480-3.1 and 480-13 applicable to the violations of section 480-2 shall apply to violations of this chapter."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

#### Note

1. No bracketed material. Edited pursuant to HRS §23G-16.5.

## ACT 295

H.B. NO. 132

A Bill for an Act Relating to Public Officers and Employees.

## ACT 295

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that part of the law on citizenship and residence of government officials and employees, as originally drafted, presumes that a woman assumed the residence of her spouse upon marriage. While the language of the provision in question has been made gender neutral, the legislature finds that no particular presumption regarding residence should be made from a change in marital status and that the provision making such a presumption is archaic and unnecessary. Consequently, it is the purpose of this Act to delete such a presumption from the law.

SECTION 2. Section 78-1, Hawaii Revised Statutes, is amended to read as follows:

**“§78-1 Citizenship and residence of government officials and employees; exceptions.** (a) All elective officers in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens of the United States and residents of the State for at least three years immediately preceding assumption of office.

(b) All appointive officers in the service of the government of the State or in the service of any county or municipal subdivision of the State who are employed as department heads, first assistants, first deputies, second assistants, or second deputies to a department head shall be citizens of the United States and residents of the State for at least one year immediately preceding their appointment; however, all others appointed in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens, nationals, or permanent resident aliens of the United States and residents of the State at the time of their appointment. A national or permanent resident alien appointed pursuant to this section shall not be eligible for continued employment unless such person diligently seeks citizenship upon becoming eligible to apply for United States citizenship.

(c) All employees in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens, nationals, or permanent resident aliens of the United States and residents of the State at the time of their application for employment.

“Resident” means a person who is physically present in the State at the time the person claims to have established the person’s domicile in the State and shows the person’s intent is to make Hawaii the person’s permanent residence. In determining this intent, the following factors shall be considered:

- (1) Maintenance of a domicile or permanent place of residence in the State;
- (2) Absence of residency in another state.

(d) For the purpose of obtaining services which are essential to the public interest for which no competent person with the qualifications under subsection (c) applies within forty-five days after the first publication of an advertisement of the position or a notice of an examination therefor, which advertisement or notice has been published more than once, and not more often than once a week, in a newspaper of general circulation in the State, a person without the qualifications [may], upon prior certification by the state director of personnel services or the [city and county director of civil service or the county] personnel director[, whichever is applicable.] of the appropriate county, and with the approval of the chief executive officer for the State or the political subdivision concerned, may be employed.



[(e)] The requirement of residency, as defined under subsection (c) above, shall not apply to a resident who was a resident of the State before marrying a nonresident and who continues to reside in the State.

[(f)] (e) For the positions involved in the performance of services in planning and executing measures for the security of Hawaii and the United States, the employees shall be citizens of the United States in addition to meeting the requirement of residency in subsection (c).

[(g)] (f) The requirements of subsections (c), (d), and [(h)] (g) shall not apply to persons recruited by the University of Hawaii under the authority of section 304-11; provided that [all]:

- (1) All persons recruited as Administrative/Professional/ Technical personnel of the University of Hawaii shall be subject to the requirement of residency as defined under subsection (c) and the requirement of subsection [(h)]; provided further that appointment] (g); and
- (2) Appointment of persons to positions requiring highly specialized technical and scientific skills or knowledge may be made without consideration of residency.

[(h)] (g) A preference shall be granted to state residents who have filed resident income tax returns within the State or who have been claimed as a dependent on such a return at the time of their application for employment with the State or any county or municipal subdivision of the State.

For residents applying for positions covered by chapters 76 and 77, the preference shall be accomplished as provided in section 76-23.

For residents applying for positions not covered by chapters 76 and 77, the preference shall be accomplished by giving first consideration to such residents, if all other factors are relatively equal.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

ACT 296

H.B. NO. 210

A Bill for an Act Relating to the Compensation of Certain Persons Under the Criminal Injuries Compensation Act and Providing Appropriations Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of compensating five hundred and nine victims and providers of services pursuant to chapter 351, Hawaii Revised Statutes, in the amounts set out opposite their respective case numbers:

Case No. 82-252		1,802.00
Case No. 84-21		570.58
Case No. 84-26		100.00
Case No. 84-26	(Kahuku Hospital)	73.50
Case No. 84-46		106.78
Case No. 84-67		2,500.00
Case No. 84-96		350.00
Case No. 84-124		2,575.44
Case No. 84-129		568.00

**ACT 296**

Case No. 84-156		2,565.68
Case No. 84-161		2,630.50
Case No. 84-228		250.00
Case No. 84-238		100.00
Case No. 84-238	(Castle Medical Center)	82.00
Case No. 84-238	(Hawaii Emergency Physicians Associated, Inc.)	140.62
Case No. 84-318		219.00
Case No. 84-335		734.00
Case No. 84-335	(Castle Medical Center)	699.95
Case No. 84-335	(Dr. Alan Nelson)	213.60
Case No. 84-335	(Dr. James Papayoanou)	203.30
Case No. 84-335	(Castle Cardiopulmonary Services)	108.62
Case No. 84-335	(Hawaii Anesthesia Group, Inc.)	572.00
Case No. 84-335	(The Radiology Group, Inc.)	69.00
Case No. 84-335	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 84-335	(Hawaii Emergency Physicians Associated, Inc.)	79.12
Case No. 84-357		300.00
Case No. 84-375		1,020.32
Case No. 84-375	(Dr. Peter In)	122.62
Case No. 84-375	(Dr. Lee Hansen Sisson)	187.20
Case No. 84-392		257.49
Case No. 84-400	(Queen's Medical Center)	6,697.80
Case No. 84-400	(Dr. Lonnie Tiner)	2,957.20
Case No. 84-400	(Dr. Robert D. Schwartz)	345.00
Case No. 84-410		326.00
Case No. 84-443		100.00
Case No. 84-445		1,833.37
Case No. 84-452		490.00
Case No. 84-463		500.00
Case No. 84-463	(Wahiawa General Hospital)	250.35
Case No. 84-463	(Hawaii Emergency Physicians Associated, Inc.)	78.12
Case No. 84-468		217.12
Case No. 84-471		2,500.00
Case No. 84-484		2,527.72
Case No. 84-484	(Dr. Leigh Sakamaki)	662.02
Case No. 85-19		1,611.50
Case No. 85-23		2,500.00
Case No. 85-34		253.92
Case No. 85-76		2,527.16
Case No. 85-76	(Dr. Joong Ik Lee)	4,480.00
Case No. 85-117		250.00
Case No. 85-117	(Hawaii Dental Associates)	1,000.00
Case No. 85-118	(Queen's Medical Center)	135.00
Case No. 85-125		126.01
Case No. 85-126		237.09
Case No. 85-127		2,500.00
Case No. 85-128		1,991.50
Case No. 85-165		2,361.37
Case No. 85-177		250.00
Case No. 85-213		1,792.99
Case No. 85-213	(Dr. Edward Jim)	2,180.04
Case No. 85-213	(Queen's Medical Center)	1,154.70
Case No. 85-215		1,990.00
Case No. 85-232		8.50
Case No. 85-253		500.00
Case No. 85-270		1,456.63
Case No. 85-270	(Dr. Kazuo Teruya)	240.87
Case No. 85-270	(The Emergency Group, Inc.)	180.00
Case No. 85-270	(State of Hawaii Emergency Ambulance Service)	112.50
Case No. 85-276		10,000.00
Case No. 85-289		250.00
Case No. 85-290		1,182.36
Case No. 85-290	(Queen's Medical Center)	444.69
Case No. 85-290	(Kuakini Medical Center)	2,135.07

Case No. 85-290	(Dr. Rolland Nakashima)	872.35
Case No. 85-290	(Anesthesia Associates, Inc.)	390.00
Case No. 85-293		2,500.00
Case No. 85-297		3,020.00
Case No. 85-300		650.75
Case No. 85-308		400.75
Case No. 85-308	(Wahiawa General Hospital)	241.70
Case No. 85-309		819.25
Case No. 85-311		250.00
Case No. 85-313		26.26
Case No. 85-313	(Maui Memorial Hospital)	661.00
Case No. 85-313	(The Maui Medical Group, Inc.)	122.17
Case No. 85-313	(Dr. Stephen Schlesinger)	65.52
Case No. 85-313	(Dr. Thomas Erbach)	91.39
Case No. 85-314		1,736.01
Case No. 85-317		838.33
Case No. 85-317	(Dr. Roger Slater)	156.00
Case No. 85-317	(The Maui Medical Group, Inc.)	289.81
Case No. 85-318		750.00
Case No. 85-319		535.00
Case No. 85-321		750.00
Case No. 85-322	(St. Francis Hospital)	1,067.00
Case No. 85-322	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 85-327		500.00
Case No. 85-331		250.00
Case No. 85-334		283.07
Case No. 85-339		500.00
Case No. 85-340		750.00
Case No. 85-344		2,079.28
Case No. 85-345		2,500.00
Case No. 85-346	(Queen's Medical Center)	754.00
Case No. 85-348		6,667.51
Case No. 85-348	(Queen's Medical Center)	764.14
Case No. 85-348	(Straub Clinic & Hospital, Inc.)	2,147.15
Case No. 85-348	(Radiology Associates, Inc.)	421.20
Case No. 85-349		1,898.87
Case No. 85-355		100.00
Case No. 85-361		500.00
Case No. 85-364		100.00
Case No. 85-369		250.00
Case No. 85-370		750.00
Case No. 85-371		897.83
Case No. 85-371	(Kuakini Medical Center)	653.94
Case No. 85-371	(Kuakini Emergency Physicians Service, Inc.)	196.03
Case No. 85-383		1,619.20
Case No. 85-383	(Dr. James Hattaway)	199.99
Case No. 85-384		848.28
Case No. 85-385		387.59
Case No. 85-386		350.00
Case No. 85-389		394.00
Case No. 85-391		1,000.00
Case No. 85-392		2,541.88
Case No. 85-396		1,585.93
Case No. 85-396	(Dr. Peter F. Guay)	156.00
Case No. 85-396	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 85-397		250.00
Case No. 85-402		167.92
Case No. 85-402	(Dr. Randall Yee)	238.64
Case No. 85-402	(Dr. Richard Rasmussen)	76.60
Case No. 85-402	(Dr. Howard Shimokawa)	60.00
Case No. 85-403		3,278.89
Case No. 85-404		375.40
Case No. 85-409		316.95
Case No. 85-411		609.96
Case No. 85-415		1,500.00
Case No. 85-415	(Dr. Brenda Knight)	768.00

## ACT 296

Case No. 85-415	(Dr. Riggs Roberts)	624.00
Case No. 85-415	(Maui Memorial Hospital)	71.00
Case No. 85-415	(Dr. Charles T. Mitchell)	45.76
Case No. 85-416		100.00
Case No. 85-416	(Dr. Riggs Roberts)	312.00
Case No. 85-417		2,500.00
Case No. 85-417	(Andrew Ono - Attorney)	200.00
Case No. 85-425		463.72
Case No. 85-430		507.94
Case No. 85-431		400.00
Case No. 85-433		100.00
Case No. 85-441		50.00
Case No. 85-443		360.00
Case No. 85-447		250.00
Case No. 85-447	(Dr. R. F. Beauchamp)	585.00
Case No. 85-447	(Kaiser Foundation Hospital)	185.20
Case No. 85-450		1,000.00
Case No. 85-450	(Hawaii Emergency Physicians Associated, Inc.)	78.12
Case No. 85-450	(The Radiology Group, Inc.)	50.00
Case No. 85-451		1,500.00
Case No. 85-453		10,000.00
Case No. 85-454		1,000.00
Case No. 85-455		2,333.00
Case No. 85-456		2,500.00
Case No. 85-458		500.00
Case No. 85-460		100.00
Case No. 85-461		350.00
Case No. 85-464		100.00
Case No. 85-465		375.00
Case No. 85-466		3,332.15
Case No. 85-467		1,309.00
Case No. 85-467	(Straub Clinic & Hospital, Inc.)	3,607.07
Case No. 85-470		911.60
Case No. 85-470	(Dr. Edwin Fujimoto)	700.00
Case No. 85-472		100.00
Case No. 85-473		500.00
Case No. 85-477		100.00
Case No. 85-480		1,000.00
Case No. 85-483		750.00
Case No. 85-485		100.00
Case No. 85-487		538.00
Case No. 85-487	(Queen's Medical Center)	684.00
Case No. 85-488		250.01
Case No. 85-488	(Kahuku Hospital)	264.60
Case No. 85-488	(Dr. Frank Voralik)	126.35
Case No. 85-488	(Dr. Salvador Cecilio)	74.88
Case No. 85-489		1,074.33
Case No. 85-491		100.00
Case No. 85-494		90.00
Case No. 85-494	(Straub Clinic & Hospital, Inc.)	9,785.00
Case No. 85-494	(State of Hawaii Emergency Ambulance Service)	125.00
Case No. 85-495		200.00
Case No. 85-495	(Castle Medical Center)	117.00
Case No. 85-495	(Hawaii Emergency Physicians Associates, Inc.)	78.12
Case No. 85-495	(The Radiology Group, Inc.)	19.00
Case No. 85-498		500.00
Case No. 85-499		1,880.20
Case No. 85-500		965.00
Case No. 85-500	(Dr. Lonnie Tiner)	2,251.46
Case No. 85-500	(Dr. Gary Wyatt)	580.00
Case No. 85-500	(Dr. Louis Wu)	402.40
Case No. 85-500	(Dr. Lester Vocke)	312.00
Case No. 85-500	(Radiology Associates, Inc.)	58.24
Case No. 85-502		10,000.00
Case No. 85-504		50.00
Case No. 85-504	(The Emergency Group, Inc.)	82.68

Case No. 85-505		100.00
Case No. 85-506		1,207.79
Case No. 85-507		1,000.00
Case No. 85-509		150.00
Case No. 85-509	(Straub Clinic & Hospital, Inc.)	482.88
Case No. 85-509	(State of Hawaii Emergency Ambulance Service)	138.00
Case No. 85-511		100.00
Case No. 85-512		1,876.48
Case No. 85-514		759.20
Case No. 85-514	(Paula Eschtruth, D.O.)	830.00
Case No. 85-514	(Dr. Michael Dickens)	362.00
Case No. 85-514	(Dia Lynn)	420.00
Case No. 85-517		100.00
Case No. 85-520	(St. Francis Hospital)	5,790.00
Case No. 85-520	(Anesthesia Associates, Inc.)	720.00
Case No. 85-520	(Dr. Guido Lozada)	1,800.00
Case No. 85-520	(Dr. Walter Y. M. Chang)	700.00
Case No. 85-520	(Dr. George Druger)	450.00
Case No. 85-520	(The Radiology Group, Inc.)	300.00
Case No. 85-520	(Dr. Dennis Maehara)	140.00
Case No. 85-520	(Dr. Roland Tam)	40.00
Case No. 85-520	(Dr. Young K. Paik)	40.00
Case No. 85-520	(Rehabilitation Hospital of the Pacific)	20.00
Case No. 85-521		100.00
Case No. 85-523		484.67
Case No. 85-524		750.00
Case No. 85-525		750.00
Case No. 85-528		164.10
Case No. 85-529		322.92
Case No. 85-531		255.18
Case No. 85-536		321.57
Case No. 85-537		929.72
Case No. 85-538		368.63
Case No. 85-539		200.00
Case No. 85-540		500.00
Case No. 85-542		120.00
Case No. 85-542	(Kuakini Medical Center)	143.00
Case No. 85-543		1,243.40
Case No. 85-544		2,586.75
Case No. 85-545		100.00
Case No. 85-546		100.00
Case No. 85-547		100.00
Case No. 85-548		94.64
Case No. 85-548	(Garden Island Medical Group, Inc.)	78.79
Case No. 85-549		452.25
Case No. 85-549	(Kauai Medical Group, Inc.)	297.88
Case No. 85-550		1,325.86
Case No. 85-550	(Kapiolani Women's and Children's Medical Center)	1,526.33
Case No. 85-551		140.50
Case No. 85-552		100.00
Case No. 85-553		255.72
Case No. 85-554		250.00
Case No. 85-554	(Kuakini Medical Center)	1,503.98
Case No. 85-554	(Shun-Kwung Liao, M.D., Inc.)	134.68
Case No. 85-554	(Kuakini Plaza Radiology, Inc.)	52.52
Case No. 85-555		250.00
Case No. 85-557		350.00
Case No. 85-558		450.00
Case No. 85-558	(Queen's Medical Center)	494.50
Case No. 85-558	(Dr. Maxwell Cooper)	400.00
Case No. 85-558	(Radiology Associates, Inc.)	72.80
Case No. 85-558	(State of Hawaii Emergency Ambulance Service)	138.00
Case No. 85-558	(Nicholson, Pierce, Hinman)	122.30
Case No. 85-558	(The Emergency Group, Inc.)	137.80
Case No. 85-558	(Castle Medical Center)	28.60

**ACT 296**

Case No. 85-560		225.00
Case No. 85-561		1,077.97
Case No. 85-561	(Kona Hospital)	256.35
Case No. 85-561	(Islands Emergency Medical Service Inc.)	67.70
Case No. 85-561	(West Hawaii Imaging Services, Inc.)	63.00
Case No. 85-561	(Kona Medical Associates)	26.49
Case No. 85-563		150.00
Case No. 85-565		1,500.00
Case No. 85-566		75.00
Case No. 85-567		100.00
Case No. 85-568		500.00
Case No. 85-569		2,000.12
Case No. 85-569	(State of Hawaii Emergency Ambulance Service)	130.00
Case No. 85-570		310.00
Case No. 85-571		1,104.00
Case No. 85-572		1,000.00
Case No. 85-574		50.00
Case No. 85-575		50.00
Case No. 85-576		2,120.70
Case No. 85-576	(Dr. Clifford Tokumaru)	783.30
Case No. 85-576	(Dr. Richard Rasmussen)	76.50
Case No. 85-577		250.00
Case No. 85-579		256.00
Case No. 85-580		500.00
Case No. 85-581		530.00
Case No. 85-582		100.00
Case No. 85-585		50.00
Case No. 85-586		55.74
Case No. 85-586	(Kauai Medical Group, Inc.)	85.80
Case No. 85-587		300.00
Case No. 85-588		250.00
Case No. 85-589		500.00
Case No. 85-591		250.00
Case No. 85-592		136.70
Case No. 85-593		100.00
Case No. 85-594		39.94
Case No. 85-594	(Hilo Hospital)	202.50
Case No. 85-598		250.00
Case No. 85-600		328.55
Case No. 85-601		610.00
Case No. 85-604		120.00
Case No. 85-604	(Wahiawa General Hospital)	58.87
Case No. 85-604	(Hawaii Emergency Physicians Associated, Inc.)	83.12
Case No. 85-604	(Dr. Arnold Seid)	50.20
Case No. 85-604	(State of Hawaii Emergency Ambulance Service)	138.00
Case No. 85-605		500.00
Case No. 85-606		150.00
Case No. 85-607		100.00
Case No. 85-610	(Queen's Medical Center)	406.00
Case No. 85-610	(The Emergency Group, Inc.)	709.80
Case No. 85-610	(Radiology Associates, Inc.)	91.52
Case No. 85-611		113.50
Case No. 85-612		158.30
Case No. 85-613		607.49
Case No. 85-615	(Straub Clinic & Hospital, Inc.)	6,540.00
Case No. 85-615	(The Maui Medical Group, Inc.)	3,000.00
Case No. 85-615	(Maui Memorial Hospital)	460.00
Case No. 85-616		1,044.18
Case No. 85-617		100.00
Case No. 85-619		750.00
Case No. 85-620		500.00
Case No. 85-623		1,500.00
Case No. 85-624		645.81
Case No. 85-625		705.93
Case No. 85-626		161.07

**ACT 296**

Case No. 85-627		1,000.00
Case No. 85-628		78.00
Case No. 85-629		200.00
Case No. 85-630		855.84
Case No. 85-630	(Hilo Hospital)	823.24
Case No. 85-630	(Dr. Frank Hammer, Jr.)	85.58
Case No. 85-630	(Dr. Robert Irvine)	360.00
Case No. 85-632		1,162.34
Case No. 85-633		50.00
Case No. 85-635		100.00
Case No. 85-636		100.00
Case No. 85-637		81.50
Case No. 85-638		230.00
Case No. 85-638	(Straub Clinic & Hospital, Inc.)	271.86
Case No. 85-639	(Dr. Edwin Dierdorff)	302.07
Case No. 85-640		210.00
Case No. 85-640	(Kuakini Medical Center)	158.50
Case No. 85-640	(Kuakini Emergency Physicians Service, Inc.)	67.70
Case No. 85-640	(Kuakini Radiology Group, Inc.)	30.68
Case No. 85-641	(Industrial Medical Clinic)	40.87
Case No. 85-643		604.48
Case No. 85-644		732.32
Case No. 85-646		350.00
Case No. 85-647		514.05
Case No. 85-648		1,250.00
Case No. 85-649		750.00
Case No. 86-1		1,173.80
Case No. 86-3		601.61
Case No. 86-4		63.12
Case No. 86-5		164.99
Case No. 86-5	(Hawaiian Eye Clinic)	87.93
Case No. 86-5	(Dr. Robert Simich)	46.88
Case No. 86-5	(Dr. John Aoki)	46.80
Case No. 86-6		1,012.09
Case No. 86-6	(Kuakini Medical Center)	85.10
Case No. 86-6	(St. Francis Hospital)	332.50
Case No. 86-6	(Dr. Meredith Pang)	68.16
Case No. 86-6	(Dr. Albert Chun Hoon)	73.48
Case No. 86-6	(Kuakini Emergency Physicians Associated, Inc.)	57.91
Case No. 86-7		10,000.00
Case No. 86-8		2,635.00
Case No. 86-10		50.00
Case No. 86-11		92.21
Case No. 86-12		50.00
Case No. 86-13		350.00
Case No. 86-14		100.00
Case No. 86-14	(Straub Clinic & Hospital, Inc.)	199.26
Case No. 86-15		50.00
Case No. 86-16		50.00
Case No. 86-17		1,457.24
Case No. 86-20		3,452.99
Case No. 86-20	(Maui Memorial Hospital)	430.30
Case No. 86-20	(Dr. Richard Rasmussen)	694.60
Case No. 86-20	(Dr. Billie Strother)	330.64
Case No. 86-21		2,000.00
Case No. 86-22		50.00
Case No. 86-24		750.00
Case No. 86-25		2,387.69
Case No. 86-26		100.00
Case No. 86-26	(Queen's Medical Center)	167.50
Case No. 86-26	(The Emergency Group, Inc.)	160.16
Case No. 86-26	(Dr. Dennis Maehara)	54.84
Case No. 86-26	(State of Hawaii Emergency Ambulance Service)	138.00
Case No. 86-26	(Electrocardiographers)	15.34
Case No. 86-27		3,102.13
Case No. 86-28		3,585.66

**ACT 296**

Case No. 86-29		1,046.00
Case No. 86-31		250.00
Case No. 86-31	(Queen's Medical Center)	218.00
Case No. 86-31	(The Emergency Group, Inc.)	368.68
Case No. 86-31	(Dr. Bennett Lau)	41.60
Case No. 86-31	(Radiology Associates, Inc.)	21.84
Case No. 86-33		1,197.67
Case No. 86-33	(Dr. Rolland Nakashima)	105.69
Case No. 86-33	(Radiology Associates, Inc.)	93.60
Case No. 86-33	(Accupath Lab)	21.32
Case No. 86-33	(Kuakini Pathologists, Inc.)	21.84
Case No. 86-35		50.00
Case No. 86-36		349.80
Case No. 86-36	(Kona Hospital)	298.50
Case No. 86-36	(West Hawaii Imaging Service, Inc.)	189.28
Case No. 86-36	(Islands Emergency Medical Service, Inc.)	178.11
Case No. 86-36	(Dr. William Babbitt)	138.52
Case No. 86-37		100.00
Case No. 86-37	(Kona Hospital)	235.00
Case No. 86-37	(West Hawaii Imaging Service, Inc.)	126.88
Case No. 86-37	(Kailua-Kona Medical Clinic, Inc.)	58.24
Case No. 86-38		1,178.01
Case No. 86-39		457.74
Case No. 86-40		640.00
Case No. 86-41		115.96
Case No. 86-41	(The Honolulu Medical Group, Inc.)	171.72
Case No. 86-41	(Queen's Medical Center)	240.00
Case No. 86-42		3,713.52
Case No. 86-42	(Kauai Veterans Hospital)	390.00
Case No. 86-42	(Garden Island Medical Group, Inc.)	151.76
Case No. 86-42	(Kauai Medical Group, Inc.)	44.72
Case No. 86-43		611.20
Case No. 86-44		2,500.00
Case No. 86-45		500.00
Case No. 86-47		250.00
Case No. 86-47	(Wahiawa General Hospital)	111.00
Case No. 86-47	(Dr. Henry Manayan)	136.66
Case No. 86-47	(Hawaii Emergency Physicians Associated, Inc.)	80.62
Case No. 86-47	(The Radiology Group, Inc.)	57.00
Case No. 86-48		150.00
Case No. 86-48	(Dr. Henry Manayan)	141.44
Case No. 86-48	(Hawaii Emergency Physicians Associated, Inc.)	80.62
Case No. 86-48	(Richard K. C. Wang, M.D., Inc.)	84.34
Case No. 86-49		289.73
Case No. 86-50		895.26
Case No. 86-51		100.00
Case No. 86-51	(St. Francis Hospital)	381.82
Case No. 86-51	(The Radiology Group, Inc.)	97.00
Case No. 86-51	(Roy J. Ebisu, M.D.)	54.52
Case No. 86-52	(Straub Clinic & Hospital, Inc.)	933.09
Case No. 86-53		1,558.78
Case No. 86-54		50.00
Case No. 86-55		50.00
Case No. 86-58		1,429.01
Case No. 86-59		181.70
Case No. 86-60		2,943.92
Case No. 86-61		371.60
Case No. 86-62		154.70
Case No. 86-63		4,346.51
Case No. 86-63	(Kona Hospital)	706.00
Case No. 86-63	(Dr. James Ward)	845.52
Case No. 86-63	(Damkers Pathomvanich, M.D.)	463.63
Case No. 86-64		556.00
Case No. 86-65		1,059.07
Case No. 86-67		160.00
Case No. 86-68		1,006.49



Case No. 86-68	(Kona Hospital)	158.30
Case No. 86-68	(Clinical Laboratories of Hawaii, Inc.)	41.41
Case No. 86-69		1,429.85
Case No. 86-70		500.00
Case No. 86-70	(Hilo Hospital)	77.10
Case No. 86-70	(Dr. Susan Gilbert)	96.20
Case No. 86-71		862.99
Case No. 86-73		1,500.00
Case No. 86-74		500.00
Case No. 86-75		500.00
Case No. 86-76		1,632.38
Case No. 86-78		508.19
Case No. 86-80		341.89
Case No. 86-81		11.38
Case No. 86-82		750.00
Case No. 86-84		350.00
Case No. 86-86		100.00
Case No. 86-87		1,000.00
Case No. 86-88		215.68
Case No. 86-89		254.06
Case No. 86-90		50.00
Case No. 86-91		50.00
Case No. 86-92		2,644.66
Case No. 86-93		250.00
Case No. 86-94		3,177.44
Case No. 86-96		856.25
Case No. 86-96	(Hawaiian Memorial Park Mortuary)	276.34
Case No. 86-99		234.00
Case No. 86-102		2,760.95
Case No. 86-103	(Garden Island Medical Group, Inc.)	109.20
Case No. 86-107		500.00
Case No. 86-107	(Queen's Medical Center)	513.00
Case No. 86-107	(St. Francis Hospital)	415.52
Case No. 86-108		1,913.20
Case No. 86-109		3,924.73
Case No. 86-109	(Dr. F. Don Parsa)	612.11
Case No. 86-109	(Dr. Allan Kunimoto)	104.04
Case No. 86-111		1,000.00
Case No. 86-111	(St. Francis Hospital)	844.86
Case No. 86-111	(Dr. Calvin Kam)	102.15
Case No. 86-111	(The Radiology Group, Inc.)	32.00
Case No. 86-112		100.00
Case No. 86-113		100.00
Case No. 86-114		350.00
Case No. 86-115		250.00
Case No. 86-115	(State of Hawaii Emergency Ambulance Service)	138.00
Case No. 86-116		750.00
Case No. 86-117		1,592.92
Case No. 86-119		150.00
Case No. 86-120		50.00
Case No. 86-121		1,380.00
Case No. 86-122		317.77
Case No. 86-123		100.00
Case No. 86-124		100.00
Case No. 86-125		1,369.89
Case No. 86-126		201.48
Case No. 86-127		500.00
Case No. 86-128		1,000.00
Case No. 86-128	(Hilo Radiologic Associates, Ltd.)	50.23
Case No. 86-128	(Dr. Reginald Carvalho)	29.95
Case No. 86-129	(Queen's Medical Center)	49.00
Case No. 86-129	(Wahiawa General Hospital)	65.00
Case No. 86-129	(Dr. Werner Grebe)	71.14
Case No. 86-129	(Dr. Kazuo Teruya)	57.72
Case No. 86-129	(The Emergency Group, Inc.)	74.88
Case No. 86-129	(Hawaii Emergency Physicians Associated, Inc.)	111.24
Case No. 86-129	(Radiology Associates, Inc.)	17.68

**ACT 296**

Case No. 86-134		50.00
Case No. 86-135		929.59
Case No. 86-136		50.00
Case No. 86-137		1,451.75
Case No. 86-139		421.40
Case No. 86-141		1,763.80
Case No. 86-142		552.79
Case No. 86-143		1,024.33
Case No. 86-145		200.00
Case No. 86-145	(Kuakini Medical Center)	116.40
Case No. 86-145	(State of Hawaii Emergency Ambulance Service)	138.00
Case No. 86-146		337.67
Case No. 86-148		163.16
Case No. 86-149		70.63
Case No. 86-151		250.00
Case No. 86-152		912.75
Case No. 86-153		750.00
Case No. 86-154	(Dr. Maxwell Cooper)	700.00
Case No. 86-155		574.00
Case No. 86-156		50.00
Case No. 86-157		897.56
Case No. 86-158		148.21
Case No. 86-159		472.00
Case No. 86-160		100.00
Case No. 86-161		777.00
Case No. 86-161	(Queen's Medical Center)	386.00
Case No. 86-161	(Dr. Robert K. Miura)	285.00
Case No. 86-161	(The Emergency Group, Inc.)	137.80
Case No. 86-163		500.00
Case No. 86-164		1,500.00
Case No. 86-165		282.00
Case No. 86-166		223.92
Case No. 86-168		150.00
Case No. 86-168	(Queen's Medical Center)	1,444.60
Case No. 86-168	(Dr. Thomas C. Owens)	2,030.91
Case No. 86-170		100.00
Case No. 86-171		100.00
Case No. 86-173		115.62
Case No. 86-174		287.01
Case No. 86-174	(West Hawaii Imaging Services, Inc.)	362.20
Case No. 86-175		500.00
Case No. 86-176		350.00
Case No. 86-179		651.18
Case No. 86-180		801.51
Case No. 86-180	(Dr. James Ward)	422.12
Case No. 86-185	(Hilo Hospital)	94.75
Case No. 86-185	(Dr. Gerrit Ludwig)	62.40
Case No. 86-186		500.00
Case No. 86-187		50.00
Case No. 86-189		750.00
Case No. 86-190		832.25
Case No. 86-191		100.00
Case No. 86-192		100.00
Case No. 86-194		350.00
Case No. 86-195		767.67
Case No. 86-195	(Maui Memorial Hospital)	407.48
Case No. 86-196		568.17
Case No. 86-198		250.00
Case No. 86-199		250.00
Case No. 86-200		250.00
Case No. 86-204		50.00
Case No. 86-206		326.50
Case No. 86-207		2,500.00
Case No. 86-208		124.47
Case No. 86-210	(Queen's Medical Center)	140.00
Case No. 86-210	(The Emergency Group, Inc.)	124.80
Case No. 86-211		350.00
Case No. 86-212		14.96

Case No. 86-213		245.00
Case No. 86-213	(Kuakini Medical Center)	444.70
Case No. 86-214		557.52
Case No. 86-215		1,117.20
Case No. 86-216		750.00
Case No. 86-217		100.00
Case No. 86-218		50.00
Case No. 86-221		25.00
Case No. 86-222		350.00
Case No. 86-223		253.45
Case No. 86-224		251.18
Case No. 86-227		3,612.45
Case No. 86-228		50.00
Case No. 86-231	(Hilo Hospital)	218.10
Case No. 86-231	(Hilo Medical Group, Inc.)	82.81
Case No. 86-232		903.60
Case No. 86-234		469.90
Case No. 86-235		1,000.00
Case No. 86-236		250.00
Case No. 86-237		350.00
Case No. 86-237	(The Emergency Group, Inc.)	124.80
Case No. 86-241		100.00
Case No. 86-242		111.05
Case No. 86-243		250.00
Case No. 86-244		258.55
Case No. 86-244	(Castle Medical Center)	1,545.25
Case No. 86-244	(Dr. Joseph C. S. Tsai)	296.20
Case No. 86-244	(Dr. James Pierce)	155.94
Case No. 86-244	(The Radiology Group, Inc.)	190.00
Case No. 86-244	(State of Hawaii Emergency Ambulance Service)	138.00
Case No. 86-244	(Hawaii Emergency Physicians Associated, Inc.)	88.33
Case No. 86-245		1,324.60
Case No. 86-246		150.00
Case No. 86-249		50.00
Case No. 86-250		243.15
Case No. 86-252	(Straub Clinic & Hospital, Inc.)	3,002.25
Case No. 86-254		65.95
Case No. 86-254	(Kahuku Hospital)	849.50
Case No. 86-254	(Dr. Salvador Cecilio)	69.04
Case No. 86-254	(X-Ray Lab Wahiawa, Inc.)	45.66
Case No. 86-254	(Dr. Kazuo Teruya)	62.40
Case No. 86-255		100.00
Case No. 86-258		1,977.28
Case No. 86-260		91.50
Case No. 86-261		786.30
Case No. 86-262		200.00
Case No. 86-263		50.00
Case No. 86-265		528.05
Case No. 86-266		284.68
Case No. 86-270		350.00
Case No. 86-272		438.86
Case No. 86-273		175.60
Case No. 86-273	(Dr. Robert Irvine)	255.19
Case No. 86-273	(Dr. Bernard Fogel)	123.20
Case No. 86-274		69.34
Case No. 86-275		1,250.00
Case No. 86-276		150.00
Case No. 86-277		50.00
Case No. 86-278		3,475.56
Case No. 86-279		50.00
Case No. 86-282		522.63
Case No. 86-282	(Kona Hospital)	197.80
Case No. 86-282	(Islands Emergency Medical Service, Inc.)	178.11
Case No. 86-282	(State of Hawaii Emergency Ambulance Service)	138.00
Case No. 86-282	(West Hawaii Imaging Service, Inc.)	40.56

**ACT 296**

Case No. 86-283	300.00
Case No. 86-284	150.00
Case No. 86-285	50.00
Case No. 86-287	50.00
Case No. 86-288	174.05
Case No. 86-289	150.00
Case No. 86-292	290.05
Case No. 86-293	1,614.66
Case No. 86-294	1,200.00
Case No. 86-297	250.00
Case No. 86-298	233.56
Case No. 86-299	267.44
Case No. 86-301	79.92
Case No. 86-302	750.00
Case No. 86-302	(Dr. Eugene Magnier) 225.68
Case No. 86-303	100.00
Case No. 86-308	250.00
Case No. 86-309	50.00
Case No. 86-310	1,500.00
Case No. 86-311	1,000.00
Case No. 86-314	150.00
Case No. 86-316	580.61
Case No. 86-318	329.56
Case No. 86-319	2,500.00
Case No. 86-320	50.00
Case No. 86-322	50.00
Case No. 86-324	806.97
Case No. 86-325	300.00
Case No. 86-326	1,480.00
Case No. 86-330	3,000.00
Case No. 86-331	2,500.00
Case No. 86-332	250.00
Case No. 86-333	493.88
Case No. 86-335	239.79
Case No. 86-337	1,073.68
Case No. 86-337	(Dr. Guido Lozada) 1,713.02
Case No. 86-339	100.00
Case No. 86-340	350.00
Case No. 86-340	(Hilo Hospital) 2,373.25
Case No. 86-340	(Dr. John Paopao) 1,862.00
Case No. 86-340	(Dr. Lloyd Minaai) 41.60
Case No. 86-341	410.06
Case No. 86-342	50.00
Case No. 86-347	100.00
Case No. 86-348	50.00
Case No. 86-350	100.00
Case No. 86-352	(Castle Medical Center) 220.80
Case No. 86-353	300.00
Case No. 86-354	300.00
Case No. 86-356	350.00
Case No. 86-358	2,108.00
Case No. 86-360	2,207.64
Case No. 86-365	500.00
Case No. 86-365	(Maui Memorial Hospital) 221.33
Case No. 86-370	150.00
Case No. 86-375	150.00
Case No. 86-376	500.00
Case No. 86-376	(Honokaa Hospital) 77.75
Case No. 86-377	250.00
Case No. 86-380	877.29
Case No. 86-381	350.00
Case No. 86-385	692.35
Case No. 86-388	250.00
Case No. 86-396	100.00
Case No. 86-396	(Hilo Hospital) 121.00
Case No. 86-396	(Hawaii Emergency Physicians Associated, Inc.) 54.03
Case No. 86-396	(Hilo Radiologic Associates, Ltd.) 31.72
Case No. 86-397	350.00

Case No. 86-399		250.00
Case No. 86-401		287.44
Case No. 86-402		1,049.55
Case No. 86-404		350.00
Case No. 86-404	(Maui Memorial Hospital)	158.78
Case No. 86-404	(The Maui Medical Group, Inc.)	300.75
Case No. 86-409		350.00
Case No. 86-412		150.00
Case No. 86-413		100.00
Case No. 86-414		969.47
Case No. 86-416		50.00
Case No. 86-417		948.00
Case No. 86-417	(Maui Memorial Hospital)	129.78
Case No. 86-417	(Dr. Charles T. Mitchell)	343.72
Case No. 86-417	(Kaiser Foundation Hospital)	57.55
Case No. 86-419		750.00
Case No. 86-425		312.12
Case No. 86-426	(Maui Memorial Hospital)	64.00
Case No. 86-426	(Dr. Richard Rasmussen)	119.60
Case No. 86-426	(Dr. Milton Howell)	43.68
Case No. 86-426	(Dr. Thomas Abram)	20.00

SECTION 2. The sums appropriated in Section 1 of this Act shall be deposited in the criminal injuries compensation fund to be used for payments as authorized by the criminal injuries compensation commission.

SECTION 3. All unexpended and unencumbered balances of the appropriations made by this Act as of the close of business on June 30, 1988, shall lapse into the general fund of the State.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

ACT 297

H.B. NO. 375

A Bill for an Act Relating to Chemical Contamination of Water Resources.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that clear governmental authority to obtain all available information relating to chemical contamination of water resources and to regulate such contaminants is an essential prerequisite to initiating timely corrective measures. Regardless of whether or not federal guidelines and standards for contaminants in drinking water have been established, clear authority to protect the public from unacceptable exposures to chemical contaminants should be within the jurisdiction of the department of health.

This Act authorizes the director of health to establish interim action levels for contaminants in drinking water for which federal standards have not been established as soon as practicable after the determination of the presence of such contaminants in public water supplies as demonstrated by reliable analytical data. This Act also requires the director of health to establish state standards for chemical contaminants in drinking water within two years of the establishment of interim action levels if adequate scientific information is available to the department.

Finally, this Act requires the director of health and water suppliers to report to the public within fourteen days the presence of any previously unconfirmed chemical contamination in ground water or drinking water.

SECTION 2. Chapter 340E, Hawaii Revised Statutes, is amended as follows:

1. By designating sections 340E-1 to 340E-9 as part I and inserting a title before section 340E-1 to read:

**"PART I. DRINKING WATER REGULATIONS"**

2. By adding a new part to be appropriately designated and to read:

**"PART . STATE INTERIM ACTION LEVELS FOR CONTAMINANTS IN WATER"**

**§340E- Definitions.** As used in this part, unless the context requires otherwise:

"EPA risk assessment guidelines" means guidelines developed by the U.S. Environmental Protection Agency for the assessment of health risks from environmental pollutants and includes, but is not limited to, Guidelines for Estimating Exposures, Guidelines for Mutagenicity Risk Assessment, Guidelines for the Health Assessment of Suspect Developmental Toxicants, and Guidelines for the Health Risk Assessment of Chemical Mixtures.

"Federal drinking water guidelines" means a proposed maximum contamination level, health advisory, or other guidance developed by the U.S. Environmental Protection Agency to assist a state agency in responding to a contaminant in drinking water for which no maximum contamination level (MCL) is established.

"Interim action level" means a level established by the director of health for a contaminant in a public drinking water supply for which a maximum contamination level is not established by the EPA.

"Reliable analytical data" means information approved by the director as indicating the presence of a contaminant in a water sample at or above the limit of detection and developed according to generally recognized standards of good field practices and good laboratory practices for sampling and analysis of contaminants in water.

**§340E- Establishment of interim action levels.** (a) The director, upon identifying a contaminant in a public water system that may present an unacceptable health risk to the public, shall establish as soon as practicable, interim action levels for those contaminants for which maximum contamination levels have not been established by the U.S. Environmental Protection Agency. The director may utilize federal drinking water guidelines as interim action levels when appropriate.

(b) The director shall establish an interim action level at a level below which risks have been determined by the director to be acceptable. EPA risk assessment guidelines may be utilized to determine health risks from a chemical contaminant. When establishing an interim action level the director shall also consider water treatment or alternate remedial actions.

(c) The director shall distribute to appropriate government and private institutions for review and comment a draft risk assessment document describing the technical and scientific methods and parameters utilized to determine an interim action level. The director shall consider all comments received relating to the risk assessment and revise an interim action level if necessary. The draft risk assessment and all comments received by the director shall be made available to the public for review.

(d) The director, upon designating an interim action level for a contaminant, shall take such actions necessary to protect the health of the public including, but not limited to:

- (1) Issuing guidance as may be necessary to protect the health of persons (including travelers) who are or may be users of a contaminated water supply system.
- (2) Notifying the public through the media of the establishment of an interim action level.

**§340E- Rules.** The director, by rules adopted under chapter 91, may establish state standards which shall supersede interim action levels. As soon as practicable and within two years of the establishment of an interim action level, and every two years thereafter until a federal or state standard is established to supersede an interim action level, the director of health shall review all available scientific information to determine whether there is sufficient basis to establish a state standard to supersede an interim action level. Prior to adopting rules to establish state standards, the director shall conduct at least one public hearing to provide information to the public on the nature of the chemical contaminant under review and to afford the public an opportunity to present information and concerns to the department relating to the chemical contaminant under review.

**§340E- Notification of contamination of underground sources of drinking water and other sources of public drinking water.** (a) Suppliers of water shall notify the department by written communication of any previously undetected chemical contamination of any underground sources of drinking water or other sources of public drinking water supply within seven days of detecting the presence of a contaminant. The written communication shall contain information known to the supplier on the level of detection, location (including depth of the source), date, well construction, and analytical method used, including information on the precision, accuracy, and limit of detection of the method and any quality assurance and control procedures.

(b) The director shall notify the public through the media, and the affected water supplier by written communication, of the presence of any previously undetected chemical contaminant in underground sources of drinking water or in any public water supply within fourteen days of the development of reliable analytical data by the department of health laboratory or receipt of reliable analytical data indicating to the director that the contaminant has been detected by another laboratory.”

**SECTION 3.** No provision of this part shall in any way modify or preempt the public notification requirements as identified by state or federal regulation pertaining to violation of the Safe Drinking Water regulations.

**SECTION 4.** New statutory material is underscored.<sup>1</sup>

**SECTION 5.** This Act shall take effect upon its approval.

(Approved June 25, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

SECTION 1. Section 514A-82, Hawaii Revised Statutes, is amended to read as follows:

**“§514A-82 Contents of bylaws.** The bylaws shall provide for at least the following:

- (1) Board of directors:
  - (A) The election of a board of directors;
  - (B) The number of persons constituting the board; provided that condominiums with more than one hundred individual apartment units shall have an elected board of not less than nine members unless not less than seventy-five per cent of all apartment owners vote by mail ballot, or at a special or annual meeting, to reduce the minimum number of directors;
  - (C) That for the initial term of office, directors shall serve for a term of three years or the term as specified by the bylaws or until their successors have been elected or appointed;
  - (D) The powers and duties of the board;
  - (E) The compensation, if any, of the directors;
  - (F) The method of removal from office of directors; that at any regular or special meeting of the apartment owners, any one or more members of the board of directors may be removed with or without cause by a majority of the apartment owners and a successor shall then and there be elected for the remainder of the term to fill the vacancy thus created. If [such] the removal and replacement is to occur at a special association meeting, the call for [such] the meeting shall be by the president or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the apartment owners; [and] provided [further] that if the secretary or managing agent does not send out the notices for the special meeting within fourteen days of receipt of the petition, the petitioners shall send out the notices for the special meeting. Except as otherwise provided [herein, such] in this section, the meeting and the procedures adopted for the removal and replacement from office of directors shall be conducted in accordance with the bylaws of the association pertaining to the removal, replacement, and election of directors; and
  - (G) Whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them.
- (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; what percentage is, consistent with this chapter, necessary to adopt decisions binding on all apartment owners and that votes allocated to any area which constitutes a common element under section 514A-13(h) shall not be cast at any association meeting, whether or not it is so designated in the declaration.
- (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners.



- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.
- (5) Election of a treasurer who shall keep the financial records and books of account.
- (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges.
- (7) Manner of collecting common expenses, expenses, costs, and fees recoverable by the association under section 514A-94, and any penalties and late charges.
- (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements.
- (9) Method of adopting and amending administrative rules [and regulations] governing the details of the operation and use of the common elements.
- (10) [Such] The restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners.
- (11) The bylaws may be amended at any time by the vote or written consent of not less than sixty-five per cent of all apartment owners; provided that each one of the particulars set forth in this section shall always be embodied in the bylaws; and provided further that proposed bylaws with the rationale for the proposal may be submitted by the board of directors or by a volunteer apartment owners' committee. If submitted by [such a] the committee, it shall be accompanied by a petition signed by not less than twenty-five per cent of the apartment owners. The proposed bylaws, rationale, and ballots for voting on the proposed bylaws shall be mailed to the owners for approval without change within fourteen days of the receipt of the petition by the board of directors. Failure of the board of directors to comply with these provisions shall validate the vote taken by the volunteer apartment owners' committee; provided the volunteer owners' committee has complied with all other applicable rules on voting for bylaw amendments.
- (12) The first meeting of the association of apartment owners shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request.
- (13) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose. There shall not be more than one representative on the board of directors from any one apartment.
- (14) A director shall not cast any proxy vote at any board meeting, nor shall a director vote at any board meeting on any issue in which the director has a conflict of interest. The director shall disclose the nature of the conflict of interest prior to a vote at the

board meeting, and the minutes of the meeting shall record the fact that a disclosure was made.

- (15) No resident manager of a condominium shall serve on its board of directors.
- (16) The board of directors shall meet at least once a year.
- (17) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to the meeting, and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the association, if any.
- (18) No resident manager, or managing agent shall solicit, for use by [such] the manager or managing agent, any proxies from any apartment owner of the association of owners which employs the resident manager or managing agent, nor shall the resident manager or managing agent cast any proxy vote at any association meeting except for the purpose of establishing a quorum. No member of a board of directors who uses association funds to solicit proxies shall cast any of these proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors and the board first posts notice of its intent to solicit proxies in prominent locations within the project at least thirty days prior to its solicitation of proxies; provided that if the board receives within seven days of the posted notice a request by any owner for use of association funds to solicit proxies accompanied by a statement, the board shall:
  - (A) Mail to all owners a proxy form containing either the names of all owners who have requested the use of association funds for soliciting proxies accompanied by their statements; or
  - (B) Mail to all owners a proxy form containing no names, but accompanied by a list of names of all owners who have requested the use of association funds for soliciting proxies and their statements.

The statement shall not exceed one hundred words, indicating the owner's qualifications to serve on the board and reasons for wanting to receive proxies.
- (19) All association and board of directors meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order.
- (20) All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors.
- (21) Notice of the annual board meeting shall be given in a reasonable manner at least fourteen days, if practicable, prior to the meeting.
- (22) Penalties chargeable against persons for violation of the covenants, conditions, or restrictions set forth in the declaration, or of the bylaws and administrative rules adopted pursuant thereto, method of determination of violations, and manner of enforcing [such] penalties, if any."

SECTION 2. All horizontal property regimes with board of directors existing on January 1, 1988, shall comply with the requirements of this Act on that date. All horizontal property regimes electing a board of directors for the first time after January 1, 1988, shall comply with the requirements of this Act at the time the elected board of directors takes office.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall apply to all existing and future horizontal property regimes.

(Approved June 25, 1987.)

## ACT 299

H.B. NO. 453

A Bill for an Act Relating to the Employees' Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-21, Hawaii Revised Statutes, is amended by amending the definition of "firefighters" to read as follows:

""Firefighters": all regularly employed members of the State, including employees of the department of transportation who were assigned firefighting duties at state airports prior to June 3, 1978, or of the fire departments of the counties, whose principal duties are to prevent and fight fires."

SECTION 2. Section 88-84, Hawaii Revised Statutes, is amended to read as follows:

"**§88-84 Ordinary death benefit.** Upon the receipt of proper proofs of a member's death in service, there shall be paid to the member's beneficiary, otherwise to the member's estate, an ordinary death benefit consisting of:

- (1) The member's accumulated contributions and if no pension is payable under the provisions of section 88-85, in addition thereto<sup>1</sup>
- (2) The member's contributions to the post retirement fund<sup>1</sup> and
- (3) An amount equal to fifty per cent of the compensation earned by the member during the year immediately preceding the member's death if the member had at least one year but not more than ten full years of credited service, which amount shall increase by five per cent of such compensation for each full year of service in excess of ten years, to a maximum of one hundred per cent of such compensation; provided that if the member had at least one year of credited service, the amount, together with the member's accumulated contributions shall not be less than one hundred per cent of the compensation.

If the member was eligible for service retirement at the time of the member's death in service, and the death occurred after [December 31, 1962,] March 1, 1987, the member's [surviving spouse, if the spouse is the member's] designated beneficiary, may elect to receive in lieu of any other payments provided in this section, the allowance which would have been payable if the member had retired the day prior to death and had elected to receive the member's retirement allowance under option [3] 2 of section 88-83."

## ACT 300

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

### Note

1. Prior to amendment, “,” appeared here.

## ACT 300

H.B. NO. 498

A Bill for an Act Relating to Dispensing Opticians.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsections (a) and (d) to read as follows:

“(a) The following chapters are hereby repealed effective December 31, 1987:

- [(1)] Chapter 458 (Board of Dispensing Opticians)
- [(2)] (1) Chapter 459 (Board of Examiners in Optometry)
- [(3)] (2) Chapter 452 (Board of Massage)
- [(4)] (3) Chapter 471 (Board of Veterinary Examiners)
- [(5)] (4) Chapter 441 (Cemeteries and Mortuaries)
- [(6)] (5) Chapter 463 (Board of Detectives and Guards)
- [(7)] (6) Chapter 455 (Board of Examiners in Naturopathy)

(d) The following chapters are hereby repealed effective December 31, 1990:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 458 (Board of Dispensing Opticians)
- [(4)] (5) Chapter 460J (Pest Control Board)
- [(5)] (6) Chapter 462A (Pilotage)
- [(6)] (7) Chapter 438 (Board of Barbers)”

SECTION 2. Section 415A-2, Hawaii Revised Statutes, is amended by amending the definition of “professional service” to read as follows:

““Professional service” means any service which lawfully may be rendered only by persons licensed under chapters 442, 448, 453, 455, [458,] 459, 460, 461, 466, 471, and 605 and may not lawfully be rendered by a corporation organized under the Hawaii Business Corporation Act, chapter 415.”

SECTION 3. Section 458-3, Hawaii Revised Statutes, is amended to read as follows:

“**§458-3 Organization; meetings, records.** The board of dispensing opticians shall annually elect from its members a chairman and a vice-chairman. The board shall keep a complete record of its proceedings. The board, subject to chapter 91 and with the approval of the governor and the director of commerce and consumer affairs may make, amend, and repeal rules for the administration of this chapter.

The board shall meet a minimum of four times a year, at quarterly intervals. Each member is required to attend at least one-half of all board

meetings in a year. Any member not attending at least one-half of all board meetings in a year shall forfeit that member's seat on the board."

SECTION 4. Section 458-4, Hawaii Revised Statutes, is repealed.

SECTION 5. Section 458-5, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 458-6, Hawaii Revised Statutes, is repealed.

SECTION 7. Chapter 458, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§458- License to engage in the occupation of dispensing optician; application; issuance.** (a) Before engaging in the occupation of dispensing optician, an individual must be licensed as a dispensing optician by the board.

(b) To apply for a license to engage in the occupation of dispensing optician an individual must have completed one of the following:

- (1) The equivalent of a high school education and three years of work experience as an opticianry apprentice as required by the board's administrative rules;
- (2) Graduation from an opticianry course accredited by the Commission on Opticianry Accreditation; or
- (3) Previous licensure in another jurisdiction which required successful completion of the national examinations specified in subsection (c).

The applicant shall submit to the board an application for a license in a form approved by the board, which shall include the applicant's experience and signature, and an application fee.

(c) Before being licensed to engage in the occupation of dispensing optician, an individual must pass the National Opticianry Competency Examination, the National Contact Lens Registry Examination, and a practical examination. The board shall issue a license to an individual who passes all three of these examinations. If the applicant fails to pass any one of the examinations, the individual shall not be licensed. Any applicant who has previously passed both the National Opticianry Competency Examination in another jurisdiction and the National Contact Lens Registry Examination shall not be required to retake these examinations and shall be issued a license upon successful completion of the practical examination."

SECTION 8. Chapter 458, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§458- Certificate to engage in the business of dispensing optician; application; issuance.** (a) Before engaging in the business of dispensing optician, a firm, including a sole proprietorship for which the proprietor is to be a licensed dispensing optician, shall first be issued a certificate of dispensing optician by the board.

(b) Each application shall be on forms prescribed by the board and shall contain:

- (1) The name of the licensed dispensing optician who will be employed at that business address;
- (2) The names and experience of each person who will take facial measurements, fit or adjust lenses or frames, or duplicate lenses; and
- (3) Such other information as the board requires. The application shall bear the signature of the proprietor if the applicant is a sole proprietorship, partner if the applicant is a partnership, or a

president or secretary if the applicant is a corporation, and shall contain the name under which the applicant proposes to do business and the business address. Separate applications shall be made for each place of business, and each application shall be accompanied by the application and registration fees.

(c) The board shall establish the procedures for issuing certificates of dispensing opticians and qualifications of firms applying to engage in the business of dispensing optician. Upon approval of an application for a certificate of dispensing optician and payment of a certificate fee, the board shall issue a certificate of dispensing optician within sixty days. A separate certificate shall be required for each address where the business is to be conducted. No application for certificate of dispensing optician shall be approved unless a licensed dispensing optician is to be employed at the place of business. The certificate shall authorize the applicant to engage in the business of dispensing optician. The certificate shall at all times be displayed in a conspicuous place at the place of business. The certificate shall not be transferable.”

SECTION 9. Section 458-7, Hawaii Revised Statutes, is amended to read as follows:

**“§458-7 Reports to board; required experience of employees.** Each holder of a certificate of dispensing optician shall file with the board [of dispensing opticians] a report containing the names and experience of each person employed by the certificate holder, who, in the course of the person’s employment, takes facial measurements, fits or adjusts lenses or frames, or duplicates lenses, together with such other information as the board requires. No certificate holder shall cause any person to take facial measurements, fit or adjust lenses or duplicate frames unless such persons are acting under the direct personal supervision of a [certificate holder.] licensed dispensing optician.”

SECTION 10. Section 458-8, Hawaii Revised Statutes, is amended to read as follows:

**“§458-8 Expiration and renewal.** Certificates and licenses issued under this chapter, unless sooner suspended or revoked, expire on July 1 of each even-numbered year, but may be biennially renewed by the certificate or license holders in good standing upon the payment of a biennial renewal fee. The holder of an expired certificate or license may have the same restored within one year of the date of expiration upon due application therefor and payment of the delinquent fees and a penalty fee.”

SECTION 11. Section 458-9, Hawaii Revised Statutes, is amended to read as follows:

**“§458-9 Revocation or suspension of certificates[,] or licenses.** After notice and hearing, as in this chapter provided, the board [of dispensing opticians] may revoke or suspend any certificate or license issued under this chapter for fraud or dishonesty in obtaining the certificate[,] or license, for dishonesty, fraud, gross negligence, or incompetency in the occupation or business of dispensing optician, or for violation of this chapter.”

SECTION 12. Section 458-11, Hawaii Revised Statutes, is amended to read as follows:

**“§458-11 Reinstatement.** The board [of dispensing opticians] may reissue without examination the license or certificate of any dispensing

optician issued under this chapter which has been revoked or may modify the suspension of any such license or certificate which has been suspended.”

SECTION 13. Section 458-12, Hawaii Revised Statutes, is amended to read as follows:

“**§458-12 Fees.** All fees [received by the board of dispensing opticians] required under this chapter shall be [as provided in] set by rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund.”

SECTION 14. Chapter 458, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§458- Dispensing contact lenses; notice.** (a) Upon dispensing contact lenses, the dispensing optician shall give the client a written notice on a board approved form that the client should return to the prescribing ophthalmologist or optometrist to ensure that the client has received contact lenses of the proper fit and prescription.

(b) The form approved by the board shall be written clearly and coherently using words with common or ordinary meanings, shall be printed using eight-point or larger type with at least one point of leading between lines, and shall use paper and ink of sufficient quality and contrast to be easily legible.”

SECTION 15. Section 458-13, Hawaii Revised Statutes, is amended to read as follows:

“**§458-13 Acts prohibited.** It shall be unlawful to do any of the following:

- (1) To engage in the business of dispensing optician without first having been issued a certificate of dispensing optician under this chapter, or to engage in the business of dispensing optician without employing a [certificate holder] licensed dispensing optician at each place of business;
- (2) To advertise in any manner that would tend to mislead or deceive the public;
- [(3)] To furnish the services of an optometrist, physician, or surgeon or directly or indirectly employ or maintain on or near the premises used for optical dispensing any optometrist, physician, or surgeon, or the practitioner of any other profession for the purpose of any examination or treatment of the eyes;
- (4) (3) To dispense, furnish, or supply the services and appliances relating to the business of dispensing optician to the intended wearer or user thereof, except upon a prescription issued by a licensed physician, surgeon, or optometrist; provided that duplications, replacements, reproductions, and repetitions, without change in the refractive value may be done without prescription by individuals or firms holding a license or certificate of dispensing optician issued under this chapter;
- [(5)] (4) To fit or duplicate, or offer, undertake, or attempt to fit or duplicate hard and soft contact lenses or artificial eyes except under the written orders and personal supervision of an ophthalmologist or optometrist[;] or fail to provide notice as required by section 458- ;
- [(6)] (5) For a dispensing optician to grant, allow, credit, or pay, directly or indirectly, openly or secretly, any price differential,

rebate, refund, discount, commission, credit, kickback, or other allowance, whether in the form of money or otherwise, to any oculist, optometrist, physician, surgeon, or practitioner of any other profession (A) for or on account of the referring or sending by any oculist, optometrist, physician, surgeon, or practitioner to the dispensing optician of any person for the rendition of any of the services performed or articles or appliances furnished by a dispensing optician as described in section 458-1, or (B) for or on account of the rendition of any services or the furnishing of any articles or appliances to a person so referred or sent by any oculist, optometrist, physician, surgeon, or practitioner. Every scheme, agreement, undertaking, arrangement, or device shall also be deemed in violation of section 481-7. The certificate or license of every dispensing optician who violates this [subsection] paragraph shall be revoked.”

SECTION 16. Section 459-2, Hawaii Revised Statutes, is amended to read as follows:

“§459-2 Optometry; unauthorized practice, unlawful. It shall be unlawful for any person to practice optometry or to append the letters “O.D.” or any other optometric degree to a person’s name with the intent thereby to imply that the individual is a practitioner of optometry, without first securing and holding an unrevoked and unsuspended license under and as provided in this chapter. This chapter shall not apply to, or prohibit, a duly licensed physician from practicing optometry as in this chapter defined, nor shall it prohibit a duly licensed physician or optometrist from filling prescriptions or orders, nor shall it prohibit the replacement, duplication, or repair of ophthalmic lenses, contact lenses, frames, or fittings thereof, by persons qualified to write or fill prescriptions or orders under this chapter, nor shall it prohibit or prevent any dispensing optician licensed under chapter 458 from [doing the mechanics of repairing, replacing, or duplicating of any ophthalmic lenses, frames, fittings, or other optic materials,] performing the activities authorized by the license, nor shall it apply to optometric service corporations formed for the primary purpose of contracting with individuals, groups of individuals, and corporations for defraying or assuming the cost of services of optometrists and of contracting on behalf of optometrists to furnish services as provided in chapter 424.

An “ophthalmic lens” within the meaning of this chapter means any spectacle lens which has a spherical, cylindrical, or prismatic power or value, and is ground pursuant to a prescription.”

SECTION 17. Statutory material to be repealed is bracketed. New statutory material is underscored<sup>1</sup>.

SECTION 18. This Act shall take effect on July 1, 1987; provided that section 14 shall take effect on January 1, 1988.

(Approved June 25, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.



*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 440G-1, Hawaii Revised Statutes, is amended to read as follows:

**“[[§440G-1]] Short title.** This chapter shall be known as the Hawaii Cable [Television] Communications Systems Law.”

SECTION 2. Section 440G-2, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 440G-3, Hawaii Revised Statutes, is amended to read as follows:

**“[[§440G-3]] Definitions.** As used in this chapter, unless the context clearly requires otherwise:

“CATV” means either community antenna television or cable television.

“CATV advisory committee” or “committee” means the CATV advisory committee established pursuant to this chapter.

“CATV permit” means a nonexclusive permit issued pursuant to this chapter authorizing operation of a CATV system, including the right to use public rights of way.

“Community antenna television system” or “cable television system” or “CATV system” means any facility within this State, the primary function of which is either to receive and amplify the broadcast signals of one or more television and radio stations or to provide signals for additional closed circuit programming, and to redistribute such signals to members of the public who subscribe thereto or to whom redistribution of such signals is required by this chapter, by means of wires, cables, conduits, or any other devices which are above, below, on, in, or along any highway or other public place, but excluding (1) any nonprofit community antenna television system which serves fewer than one hundred subscribers, or (2) any system which serves, by means of a roof-top antenna and an internal cable distribution system, only the residents of one or more apartment dwellings or hotels under common ownership, control, or management, and commercial establishments located on the premises of such dwellings.

“Community antenna television system company” or “cable television company” or “CATV company” or “CATV operator” means any person who owns, controls, operates, or manages a cable television system, but excluding (1) a telephone or other utility, regulated by the public utilities commission, in a case where it merely leases or rents facilities for the redistribution of television signals to or toward subscribers of a CATV company, or (2) a telephone or other utility, regulated by the public utilities commission, in a case where it provides communication channel service under published tariffs filed with the public utilities commission or the Federal Communications Commission.]

“Applicant” means a person who initiates an application or proposal.

“Application” means an unsolicited filing.

“Basic cable service” means any service tier which includes the retransmission of local television broadcast signals.

“Cable franchise” means a nonexclusive initial authorization or renewal thereof issued pursuant to this chapter, whether the authorization is designated as a franchise, permit, order, contract, agreement, or otherwise, which authorizes the construction or operation of a cable system.

“Cable operator” means any person or group of persons (1) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in the cable system or (2) who

**ACT 301**

otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

“Cable service” means (1) the one-way transmission to subscribers of video programming or other programming service and (2) subscriber interaction, if any, which is required for the selection of video programming or other programming service.

“Cable system” means any facility within this State consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but does not include (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (2) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless that facility or facilities uses any public right-of-way; or (3) a facility of a public utility subject in whole or in part to the provisions of chapter 269, except to the extent that those facilities provide video programming directly to subscribers.

“Department” means the department of commerce and consumer affairs.

“Director” means the director of commerce and consumer affairs.

“Facility” includes all real property, antenna, poles, supporting structures, wires, cables, conduits, amplifiers, instruments, appliances, fixtures, and other personal property used by a [CATV company] cable operator in providing service to its subscribers.

[“Highway” includes every street, road, alley, thoroughfare, way, or place of any kind used by the public, or open for the use of the public as a matter of convenience and right.

“Permittee” means a person who is issued a CATV permit pursuant to this chapter.]

“Institution of higher education” means an academic college or university accredited by the Western Association of Schools and Colleges.

“Other programming service” means information that a cable operator makes available to all subscribers generally.

“Person” means an individual, partnership, association, joint stock company, trust, corporation, or governmental agency.

“Proposal” means a filing solicited by the director.

“Public, educational, or governmental access facilities” means (1) channel capacity designated for public, educational, or governmental uses and (2) facilities and equipment for the use of that channel capacity.

“Public place” [or “public places”] includes any property, building, structure, or water to which the public has a right of access and use.

“Public utilities commission” means the public utilities commission of this State.

“School” means an academic and non-college type regular or special education institution of learning established and maintained by the department of education or licensed and supervised by that department.

“Service area” [is] means the geographic area [in] for which a [CATV company] has facilities by means of which it can offer its services to the public and [cable operator] has been issued a [permit to do so.] cable franchise.

“Video programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.”

SECTION 4. Section 440G-4, Hawaii Revised Statutes, is amended to read as follows:

**“[[§440G-4]] Issuance of [CATV permits] cable franchises and regulation of [CATV companies] cable operators by director of commerce and consumer affairs.** The director [of commerce and consumer affairs] shall be empowered to issue [CATV permits,] cable franchises and otherwise administer and enforce this chapter.”

SECTION 5. Section 440G-5, Hawaii Revised Statutes, is amended to read as follows:

**“[[§440G-5]] [CATV permit required; exception.] Cable franchise required.** No person shall construct, operate, or acquire a [CATV] cable system, or extend an existing [CATV] cable system outside its designated service area, without first obtaining a [CATV permit] cable franchise as provided in this chapter; except that, notwithstanding any other section of this chapter, CATV permits shall be issued by the director, for those service areas in which facilities had been placed on or before June 1, 1969, to each CATV company which was operating a CATV system, or which had erected a headend antenna for distribution of a television signal by means of a coaxial cable, on or before June 1, 1969, if application for the permit is filed with the director within ninety days after June 19, 1970; provided that pending the issuance of the CATV permit, any existing CATV system may (1) continue to operate within the area served on June 19, 1970, and (2) when in the discretion of the director of commerce and consumer affairs the public interest would be served, continue construction of its facilities within areas approved by the director].”

SECTION 6. Section 440G-6, Hawaii Revised Statutes, is amended to read as follows:

**“[[§440G-6]] Application or proposal for [CATV permit;] cable franchise; fee; certain requirements.** [(a) No CATV permit or renewal of a CATV permit shall be issued except upon written application therefor to the director, accompanied by a fee of \$100, and on an application form to be prescribed by the director. The form shall set forth such facts as the director may prescribe as to the citizenship, character, and financial, technical, and other qualifications of the person seeking to operate the CATV system, and complete information as to the principals and ultimate beneficial owners (including in the case of a corporation, all stockholders both nominal and beneficial, owning ten per cent or more of the issued and outstanding stock, and in the case of unincorporated associations, all members and ultimate beneficial owners, however designated) and such other information as the director deems appropriate or necessary. The application shall be signed by the applicant whose relationship with the proposed permittee shall be as prescribed by regulation of the director, or by a duly authorized person, evidence of whose authority shall be submitted with the application. Each applicant shall make full disclosure as to the true ownership of the facilities to be employed in rendering service, as to the source of funds for the purchase, lease, rental, and installation of such facilities, except as to the source of funds for the purchase and installation of facilities to be provided by a public utility, and as to the applicant's ability to extend service at a reasonable cost to the potential subscribers in the proposed service area. Each application shall set forth the rates to be charged, the services to be offered, the facilities to be employed, the general routes of the wires, cables, conduits, or other devices used in the redistribution of signals, the service

## ACT 301

area or areas, the commencement and completion dates of construction of the CATV system, and the proposed date service will be available to the areas named.

(b) The application shall require that, in the event a CATV permit is issued, the applicant agrees to the following:

- (1) In installing, operating, and maintaining facilities, it will avoid all unnecessary damage and injury to any trees, structures, and improvements in and along the routes authorized by the director.
- (2) It will indemnify and hold the State and the county harmless at all times from any and all claims for injury and damage to persons or property, both real and personal, caused by the installation, operation, or maintenance of the permittee's CATV system. Upon receipt of notice in writing from the State or county it will, at its own expense, defend any action or proceeding against the State or county in which it is claimed that personal injury or property damage was caused by activities of the permittee in the installation, operation, or maintenance of its CATV system.
- (3) It will provide a cable drop at reduced rates or at no cost to any school or any institution of higher education within the service area authorized by the CATV permit; provided that service is actually being delivered in the areas adjacent to the school.
- (4) Upon termination of the period of the CATV permit or of any renewal thereof, by passage of time or otherwise, it will remove its facilities from the highways and other public places in, on, over, under, or along which they are installed if so ordered by the director and will restore the areas to their original condition, or otherwise dispose of same. If such removal is not completed within six months of the termination, any property not removed shall be deemed to have been abandoned and the permittee will be liable for the cost of its removal.
- (5) Before commencing construction of an increment of a CATV system, the applicant or, in the case of a leased facility, the lessor, other than a public utility, will submit to the director a performance bond, with corporate surety satisfactory to the director. The penal amount of the bond shall be not less than fifty per cent of the cost of construction. The conditions of the bond shall be the satisfactory completion of installation of the CATV system in accordance with the schedule of installation proposed in the application.]

(a) No cable franchise shall be issued except upon written application or proposal therefor to the director, accompanied by a fee of \$1,000.

(b) An application for issuance of a cable franchise shall be made in a form prescribed by the director. The application shall set forth the facts as required by the director to determine in accordance with section 440G-8(b) whether a cable franchise should be issued, including facts as to:

- (1) The citizenship and character of the applicant;
- (2) The financial, technical, and other qualifications of the applicant;
- (3) The principals and ultimate beneficial owners of the applicant;
- (4) The public interest to be served by the requested issuance of a cable franchise; and

- (5) Any other matters deemed appropriate and necessary by the director including the proposed plans and schedule of expenditures for or in support of the use of public, educational, and governmental access facilities.

(c) A proposal for issuance of a cable franchise shall be accepted for filing in accordance with section 440G-7 only when made in response to the written request of the director for the submission of proposals.”

SECTION 7. Section 440G-7, Hawaii Revised Statutes, is amended to read as follows:

“[§440G-7] Public] Cable franchise application or proposal procedure; public hearing; notice. An application or proposal for a cable franchise shall be processed as follows:

- (1) After the application or proposal and required fee are received by the director and within a time frame established by rule, the director shall notify an applicant in writing of the acceptance or non-acceptance for filing of an application or proposal for issuance of a cable franchise required by this chapter.
- (2) [Upon the filing of an application and the payment of the fee prescribed,] After the issuance of a notice of acceptance for filing and within a time frame established by rule, the director [within sixty days] shall [fix the time and place for] hold a public hearing [thereon and shall cause notice] on the application or proposal to afford interested persons the opportunity to submit data, views, or arguments, orally or in writing. Notice thereof [to] shall be given to the governing council and mayor of the county and to any telephone or other utility and [CATV] cable company in the county in which the proposed service area is located. The director shall also cause notice of the application and hearing to be published [twice, not less than one week apart and at least one week prior to the hearing, in some] at least once in each of two successive weeks in a newspaper of general circulation in the county in which the proposed service area is located. The last published notice shall appear at least fifteen days prior to the date of the hearing.
- (3) After holding a public hearing, the director shall approve the application or proposal in whole or in part, with or without conditions or modifications, or shall deny the application or proposal, with reasons for denial sent in writing to the applicant. If the director does not take final action after the issuance of a notice of acceptance for filing and within a time frame established by rule, the application or proposal shall be deemed denied.
- (4) The time limit for final action may be extended, on the director's approval of the applicant's request and justification in writing for an extension of time to the director at least two weeks in advance of the requested effective date of the extension, or by mutual agreement.”

SECTION 8. Section 440G-8, Hawaii Revised Statutes, is amended to read as follows:

“[§440G-8] Issuance of [CATV permit] cable franchise authority; criteria; content. (a) The director is empowered to issue a [CATV permit] cable franchise to construct [and] or operate facilities for a [CATV] cable

## ACT 301

system upon the terms and conditions provided in this chapter[; provided that in the construction and operation of facilities for a CATV system:

- (1) The use of all highways and other public places shall be subject to all applicable state statutes which heretofore or hereafter may be adopted and to all applicable regulations of the public utilities commission which heretofore or hereafter may be adopted governing the construction and maintenance of overhead and underground facilities of public utilities;
- (2) The use of all highways and other public places which are county highways within the meaning of section 264-1 shall be subject to all public welfare regulations which heretofore or hereafter may be adopted by the governing body of the county within which the county highways are situated;
- (3) The use of all highways and other public places which are state or federal-aid highways within the meaning of section 264-1 shall be subject to all public welfare regulations which heretofore or hereafter may be adopted by the director of the department of transportation; and
- (4) The provisions of section 264-33 concerning the allocation of expenses for the relocation of utility facilities shall apply to the allocation of expenses for the relocation of CATV facilities].

(b) The director, after a public hearing as provided in this chapter, shall issue a [CATV permit] cable franchise to the applicant when the director is convinced that it is in the public interest to do so. In determining whether a [CATV permit] cable franchise shall be issued, the director shall take into consideration, among other things, the content of the application or proposal, the public need for the proposed service [or acquisition], the ability of the applicant to offer safe, adequate, and reliable service at a reasonable cost to the subscribers, the suitability of the applicant, the financial responsibility of the applicant, the technical and operational ability of the applicant to perform efficiently the service for which authority is requested, [and] any objections arising from the public hearing, the [CATV] cable advisory committee[,] established by this chapter, or elsewhere[,] and any other matters as the director deems appropriate in the circumstances.

(c) In determining the area which is to be serviced by the [CATV company,] applicant, the director shall take into account the geography and topography of the proposed service area, and [both] the present [operations and the], planned, and potential expansion in facilities or cable services of the applicant's proposed cable system and [other CATV companies.] existing cable systems.

(d) In issuing a [CATV permit] cable franchise under this chapter, the director is not restricted to approving or disapproving the application or proposal but may issue it for only partial exercise of the privilege sought or may attach to the exercise of the right granted by the [CATV permit such] cable franchise terms, limitations, and conditions which the director deems the public interest may require. The [CATV permit] cable franchise shall be nonexclusive, shall include a description of the service area in which the [CATV] cable system is to be constructed, extended, or operated[, or acquired] and the approximate date on which the service is to commence and shall authorize the [CATV company] cable operator to provide service for a term of [twenty] fifteen years.”

SECTION 9. Chapter 440G, Hawaii Revised Statutes, is amended by adding two new sections to read as follows:

**“§440G-8.1 Requirement for adequate service; terms and conditions of service.** (a) Every cable operator shall provide safe, adequate, and reliable service in accordance with applicable laws, rules, franchise requirements, and its filed schedule of terms and conditions of service.

(b) The director shall require each cable operator to submit a schedule of all terms and conditions of service in the form and with the notice that the director may prescribe.

(c) The director shall ensure that the terms and conditions upon which cable service is provided are fair both to the public and to the cable operator, taking into account the geographic, topographic, and economic characteristics of the service area and the economics of providing cable service to subscribers in the service area.

**§440G-8.2 Cable system installation, construction, operation, removal; general provisions.** (a) A cable franchise shall be construed to authorize the construction or operation of a cable system within the service area above, below, on, in, or along any highway or other public place and through easements which have been dedicated for compatible purposes.

(b) The technical specifications, general routes of the distribution system, and the schedule for construction of the cable system shall be subject to the director's approval.

(c) In installing, operating, and maintaining facilities, the cable operator shall avoid all unnecessary damage and injury to any trees, structures, and improvements in and along the routes authorized by the director.

(d) The cable operator shall indemnify and hold the State and the county harmless at all times from any and all claims for injury and damage to persons or property, both real and personal, caused by the installation, operation, or maintenance of its cable system, notwithstanding any negligence on the part of the State or county, their employees or agents. Upon receipt of notice in writing from the State or county, the cable operator shall, at its own expense, defend any action or proceeding against the State or county in which it is claimed that personal injury or property damage was caused by activities of the cable operator in the installation, operation, or maintenance of its cable system.

(e) The cable operator shall provide a cable drop and basic cable service at no cost to any school or institution of higher education within its service area; provided that service is actually being delivered within a reasonable distance from the school or institution of higher education which may request service.

(f) The cable operator shall designate three or more channels for public, educational, or governmental use.

(g) Upon termination of the period of the cable permit or of any renewal thereof, by passage of time or otherwise, the cable operator shall remove its facilities from the highways and other public places in, on, over, under, or along which they are installed if so ordered by the director and shall restore the areas to their original or other acceptable condition, or otherwise dispose of same. If removal is not completed within six months of the termination, any property not removed shall be deemed to have been abandoned and the cable operator shall be liable for the cost of its removal.

(h) The use of public highways within the meaning of section 264-1 and other public places shall be subject to:

- (1) All applicable state statutes and all applicable rules and orders of the public utilities commission governing the construction, maintenance, and removal of overhead and underground facilities of public utilities;

ACT 301

- (2) For county highways, all applicable public welfare rules adopted by the governing body of the county in which the county highways are situated;
  - (3) For state or federal-aid highways, all public welfare rules adopted by the director of transportation; and
  - (4) For the relocation of cable facilities, the provisions of section 264-33 concerning the allocation of expenses for the relocation of utility facilities.
- (i) In the use of easements dedicated to compatible purposes, the cable operator shall ensure:
- (1) That the safety, functioning, and appearance of the property and the convenience and safety of other persons is not adversely affected by the installation or construction of facilities necessary for a cable system;
  - (2) That the cost of the installation, construction, operation, or removal of facilities is borne by the cable operator or subscribers, or a combination of both; and
  - (3) That the owner of the property is justly compensated by the cable operator for any damages caused by the installation, construction, operation, or removal of facilities by the cable operator."

SECTION 10. Section 440G-9, Hawaii Revised Statutes, is amended to read as follows:

**"[§440G-9]] Complaints[,]; violations; revocation, alteration, or suspension of [permits.] cable franchise; penalties.** [Any complaint by any person as to the operation of a CATV system shall be filed in writing with the director.] **(a) Subscriber complaints regarding the operation of a cable system may be made orally or in writing to the director. The director shall resolve complaints informally when possible.**

**(b) Any [permit] cable franchise issued hereunder [may] after hearing in accordance with chapter 91 may be revoked, altered, or suspended by the director as the director deems necessary on any of the following grounds:**

- (1) For [wilful] **making material** false or misleading statements in, or for material omissions from, any application[;] or proposal or other filing made with department;
- (2) For failure to file and maintain a bond under section 440G-6;
- (3) **(2) For [repeated] failure[, as determined by the director,] to maintain signal quality under the standards prescribed by the director;**
- (4) **(3) For any sale, lease, assignment, or other transfer of its [permit] cable franchise without consent of the director;**
- (5) **(4) [For an inability to provide CATV service at reasonable cost to the service area;] Except when commercially impracticable, for unreasonable delay in construction or operation or for unreasonable withholding of the extension of cable service to any person in a service area;**
- (6) **(5) For violation of the terms of its [permit; and] cable franchise;**
- (7) **(6) For failure to comply with this chapter or any [regulation] rules or orders prescribed by the director[.];**
- (7) **For violation of its filed schedule of terms and conditions of service; and**
- (8) **For engaging in any unfair or deceptive act or practice as prohibited by section 480-2.**



(c) In lieu of or in addition to the relief provided by subsection (b), the director may fine a cable operator, for each violation of subsection (b)(1) through (8), an amount not less than \$50 nor more than \$25,000 for each violation. Each day's continuance of a violation may be treated as a separate violation pursuant to rules adopted by the director. Any penalty assessed under this section shall be in addition to any other costs, expenses, or payments for which the cable operator is responsible under other provisions of this chapter."

SECTION 11. Section 440G-10, Hawaii Revised Statutes, is amended to read as follows:

"[§440G-10] Renewal of [CATV permits; transfer.] cable franchise. Any [CATV permit] cable franchise issued pursuant to this chapter may be renewed, after a hearing as prescribed in section 440G-7 and upon payment of the fee and compliance with the requirements prescribed in section 440G-6, for additional periods of not less than ten nor more than twenty years each. No CATV permit may be assigned, sold, leased, encumbered, or otherwise transferred without the prior written consent of the director. Such consent shall be given only upon a written application therefor on forms to be prescribed by the director. The forms shall require from both the transferor and the proposed transferee substantially the same information as required by section 440G-6. The application shall also contain information concerning the consideration to be paid and such other matters as the director may deem appropriate or necessary, and shall be signed by both the transferor and the proposed transferee.] by the director upon approval of a cable operator's application or proposal therefor. The form of the application or proposal shall be prescribed by the director. The periods of renewal shall be not less than five nor more than twenty years each. The director shall require of the applicant full disclosure, including the proposed plans and schedule of expenditures for or in support of the use of public, educational, or governmental access facilities."

SECTION 12. Chapter 440G, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**"§440G-10.1 Transfer of cable franchise.** (a) No cable franchise, including the rights, privileges, and obligations thereof, may be assigned, sold, leased, encumbered, or otherwise transferred, voluntarily or involuntarily, directly or indirectly, including by transfer of control of any cable system, whether by change in ownership or otherwise, except upon written application to and approval by the director. The form of the application shall be prescribed by the director.

(b) Sections 440G-7 and 440G-8 shall apply to the transfer of cable franchises."

SECTION 13. Section 440G-11, Hawaii Revised Statutes, is amended to read as follows:

"[§440G-11] Rate, filed with director; approval. [The director shall require each CATV company to submit a schedule of its rates and all terms and conditions of service in such form and on such notice as the director may prescribe. The duty of the director shall be to maintain surveillance over [such]<sup>1</sup> filed rates and terms and conditions of service to insure that the rates and terms and conditions of service are fair both to the public and to the CATV company, taking into account the geographic, topographic, and economic characteristics of the service area and the economics of providing CATV service to subscribers in the service area.

## ACT 301

Any disagreement between the director and a CATV company over its filed schedule or rates shall be resolved by the director after a hearing has been held to afford the CATV company an opportunity to explain the basis of its filed schedule of rates. After a hearing, the director shall make a determination which is final and conclusive subject only to any rights of appeal as may be provided by statute.] (a) The director shall require each cable operator to file a schedule of its rates of service on a form and with the notice that the director may prescribe.

(b) To the extent permitted by federal law, the director shall regulate rates to ensure that they are fair both to the public and to the cable operator."

SECTION 14. Section 440G-12, Hawaii Revised Statutes, is amended to read as follows:

**"§440G-12 Other duties of director; suit to enforce chapter.** (a) The director has the power and jurisdiction to supervise and regulate every [CATV company operating] cable operator within this State so far as may be necessary to carry out the purposes of this chapter, and to do all things which are necessary or convenient in the exercise of this power and jurisdiction.

(b) The director may [promulgate,] adopt, pursuant to chapter 91, [such] rules [and regulations as are] necessary to carry out this chapter[, including rules and regulations establishing criteria which:

- (1) Categorize CATV companies according to their method of operation or any other appropriate criteria;
- (2) Identify general requirements for the designation of service area; and
- (3) Govern the quality of the signal required to be transmitted by the CATV system.

(b) The director may approve or disapprove, as the public interest may require, all provisions of contracts or other agreements between CATV companies and public utilities concerning the use of the equipment of the public utility by the CATV company, except for those matters which are regulated by the public utilities commission or by the Federal Communications Commission].

(c) The director or [a member of] the director's [department] designated representatives may from time to time visit the places of business and other premises and examine the records and facilities of all [CATV companies] cable operators to ascertain if all laws, rules, [regulations,] cable franchise provisions, and orders of the director have been compiled with, and shall have the power to examine all officers, agents, and employees of [such CATV companies,] cable operators, and all other persons, under oath, and to compel the production of papers and the attendance of witnesses to obtain the information necessary for administering this chapter.

(d) The director may appoint or contract for [such] assistants and [such] clerical, stenographic, and other staff as may be necessary for the proper administration and enforcement of this chapter subject to chapters 76 and 77.

(e) The director shall have the power and authority to institute all proceedings and investigations, hear all complaints, issue all process and orders, and render all decisions necessary to enforce this chapter or the rules[, regulations,] and orders adopted thereunder, or to otherwise accomplish the purposes of this chapter.

(f) The director or other aggrieved party shall have the right to institute, or to intervene as a party in, any action in any court of law seeking a mandamus, or injunctive or other relief to compel compliance with this chapter, or any rule[, regulation,] or order adopted thereunder, or to restrain

or otherwise prevent or prohibit any illegal or unauthorized conduct in connection therewith.”

SECTION 15. Section 440G-13, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§440G-13]]~~ **CATV Cable advisory committee.** There is established the [CATV] cable advisory committee. The committee shall consist of five members appointed by the governor as provided in section 26-34.

The committee shall advise the director[, after its formation and so long as the director has the power granted the director by section 440G-4,] and cable operators on [all] matters [affecting the issuance or revocation of CATV permits, the filing of rates by CATV companies, and any other matter] within the jurisdiction of this chapter[.] at the request of the director or any cable operator.

The members of the committee shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in discharge of their duties.”

SECTION 16. Section 440G-14, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§440G-14]]~~ **Annual reports; fees.** **Reports.** [With relation to each CATV permit, each permittee] Each cable operator shall file [annually] with the director [on forms to be prescribed by the director, a statement] reports of its [revenue and expenses] financial, technical, and operational condition and its ownership. The [completed forms] reports shall be made in a form and on the time schedule prescribed by the director and shall be kept on file open to the public.

[A permittee under this chapter shall pay an annual fee computed in a schedule to be determined by the director. The fees so collected shall be used to offset the costs of administering this chapter.]”

SECTION 17. Chapter 440G, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

“**§440G-15 Annual fees.** Each cable operator shall pay an annual fee to be determined by the director. The fees so collected shall be used to offset the costs of administering this chapter.”

SECTION 18. The members of the CATV advisory committee appointed pursuant to section 440G-13, Hawaii Revised Statutes, shall continue to serve their current terms of appointment as members of the advisory committee, notwithstanding the amendments made by section 15 of this Act to the name and responsibilities of the advisory committee.

SECTION 19. The department of commerce and consumer affairs is directed to appeal to the Federal Communication Commission concerning the lack of rate regulatory authority despite the lack of effective competition because of the topographical characteristics of the islands.

SECTION 20. The director shall adopt rules pursuant to chapter 91 necessary for the purposes of this chapter.

SECTION 21. Statutory material to be repealed is bracketed. New statutory material is underscored<sup>2</sup>.

SECTION 22. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

## ACT 302

### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 302

H.B. NO. 541

A Bill for an Act Relating to Private Use of Ocean Waters and Navigable Streams.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 266-16, Hawaii Revised Statutes, is amended to read as follows:

**“§266-16 Limitation of private use of ocean waters[.] and navigable streams.** No person shall erect or place any structure or similar object, or sink any type of watercraft or other sizeable object, or abandon any type of watercraft or other sizeable object, either sunk or unsunk, on or within the ocean waters or navigable streams of the State without a written permit from the department of transportation. The department may require any person violating this section to remove any structure, similar object, watercraft, or other sizeable object, within the meaning of this section, on or within the ocean waters or navigable streams of the State. If any person fails to remove same within a time limit set by the department, it may effect such removal and charge the person with the cost thereof. The department may enforce compliance with this section by the use of any appropriate remedy.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

## ACT 303

H.B. NO. 574

A Bill for an Act Relating to Conveyances.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 502-17, Hawaii Revised Statutes, is amended to read as follows:

**“§502-17 Filing of; data on plans; monuments[.]; metes and bounds descriptions.** (a) The registrar shall accept and file in his office, upon the payment of the fee as provided in section 502-25, any plan of land prepared in the manner prescribed by this section. Every such plan shall contain a short name of the tract; the name of the ahupuaa of<sup>1</sup> ili, district, and island; such data concerning the original title of the land as may be known, together with name of the last owner of record and his address; the signature of the surveyor and his address; the signature of the maker and his address; date of survey, scale, the meridian line, area, the true azimuths and lengths of principal lines; and the names of all known adjoining owners. One or more durable monuments shall be placed on the land which shall connect with the government triangulation system and which monuments shall be placed as indicated on the plan. Whenever the land platted is made up of more than

one original title, it shall be necessary to show all original title lines in broken lines as follows:

.....

(b) The plan shall first be referred to the department of accounting and general services of the State which shall cause the same to be checked as to form and mathematical correctness but not on the ground. If the plan is drawn in accordance with this section and sections 502-18 and 502-19, the department shall endorse its approval of the plan on the face thereof, after which the plan may be filed of record. The department shall withhold approval of any plan until satisfied that the surveyor and maker of the plan is a registered professional surveyor.

(c) Plans for the subdivision of land situated in any county shall, before approval by the department, be subject to approval by the appropriate officer, agency, or agencies in like manner as subdivisions under applicable laws.

(d) On receipt for recordation of a transfer or separate description document concerning a lot in a subdivision, the registrar shall accept and file the document with:

- (1) a metes and bounds description, either solely or as part of the document;
- (2) a certified plat map; and
- (3) a letter from a registered professional surveyor, certifying that the metes and bounds description conforms to the accompanying plat map.

The document shall otherwise comply with the requirements for recordation under this section. Any parcel created or subdivided prior to the effective date of the subdivision laws of the respective counties are exempt from the provisions of this subsection.

(e) For checking the survey and plan as to form and mathematical correctness, the department shall charge \$2 an hour and shall require the owner of the land to deposit the estimated cost thereof before making such check.

(f) All fees collected under this section shall be deposited in the state treasury to the credit of the general fund."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on January 1, 1988.

(Approved June 25, 1987.)

Note

- 1. So in original.

ACT 304

H.B. NO. 578

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Industrial Enterprises.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that relatively low prices for oil and gas have contributed to an alarming lack of concern for the development of alternative energy resources and that development of such resources should

## ACT 305

occur before a recurrence of the energy crisis of the 1970's. The legislature finds that part V, chapter 39A, Hawaii Revised Statutes, permits the State to financially assist industrial enterprises through the issuance of special purpose revenue bonds.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

SECTION 2. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue in one or more series special purpose revenue bonds in a total amount not to exceed \$20,000,000 for the purpose of assisting Island Power Company, a Hawaiian corporation, in the construction and operation of the Honolii Stream Hydroelectric Project and related facilities on the Honolii stream in Hawaii county. The entire output of this plant shall be made available for use by members of the general public by sale to the Hawaii Electric Light Company. The legislature finds and determines that the activity and facilities of Island Power Company constitute a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

## ACT 305

S.B. NO. 255

A Bill for an Act Relating to Child Support.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 576D-7, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The family court, in consultation with the agency, shall establish guidelines to establish the amount of child support when an order for support is sought or being enforced under this chapter. The guidelines shall be based on specific descriptive and numeric criteria and result in a computation of the support obligation.

The guidelines may include consideration of the following:

- (1) All earnings, income, and resources of both parents; provided that earnings be the net amount, after deductions for taxes, and social security. Overtime and cost of living allowance may be deducted where appropriate;
- (2) The earning potential, reasonable necessities, and borrowing capacity of both parents;
- (3) The needs of the child for whom support is sought;
- (4) The amount of public assistance which would be paid for the child under the full standard of need as established by the department; [and]
- (5) The existence of other dependents of the obligor parent[.];
- (6) To foster incentives for both parents to work; and

- (7) To balance the standard of living of both parents and child and avoid placing any below the poverty level whenever possible;
- (8) To avoid extreme and inequitable changes in either parents income depending on custody;
- (9) If any obligee parent (with a school age child or children in school), who is mentally and physically able to work, remains at home and does not work, 30 (or less) hours of weekly earnings at the minimum wage may be imputed to that parent's income.
- (b) The guidelines shall be:
- (1) Applied statewide;
- (2) To simplify the calculations as much as practicable;
- [(2)] (3) Applied to ensure, at a minimum, that the child for whom support is sought benefits from the income and resources of the obligor parent on an equitable basis in comparison with any other minor child of the obligor parent;
- [(3)] (4) Established by October 1, 1986; and
- [(4)] (5) Transmitted to the agency and all family court judges when available or updated, and shall be considered by the judges in the establishment of each child support order."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

## ACT 306

S.B. NO. 398

A Bill for an Act Relating to Irrigation Systems.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter under title 11, to be appropriately designated and to read as follows:

### "CHAPTER IRRIGATION WATER DEVELOPMENT

§ -1 **Findings and declaration of necessity.** It is important to the welfare of the people of Hawaii that agricultural production be developed as fully as possible. It is further found that water presently tapped for irrigation is inadequate for the fullest development of the economy of the State. It is therefore hereby declared that additional water and water facilities are necessary for the development of agriculture in the State.

It is the intent of the legislature that no project under this chapter shall be organized in the city and county of Honolulu or other counties without the board of agriculture first consulting the board of water supply of the city and county of Honolulu or the water board or department of each county.

§ -2 **Definitions.** The following terms, whenever used and referred to in this chapter, have the following respective meanings, unless a different meaning clearly appears in the context:

## ACT 306

“Acreage assessments” means any levy imposed pursuant to this chapter on the agricultural and pasture land within an irrigation project and any amount charged to the State or to the Hawaiian homes commission for the purpose of acquiring, establishing, or maintaining irrigation facilities for an irrigation project.

“Agricultural land” means that portion of the land of a land occupier lying within an existing or proposed irrigation project and of such location and character as may be profitably employed in the growing of irrigated crops; and “pasture land” means that portion of the land of a land occupier lying within an existing or proposed irrigation project and of such location and character as may be suitable with the use of water for irrigated pasture and may be profitably employed in the production of livestock or poultry.

“Board” means the board of agriculture.

“Farming” means agricultural pursuits, including the care and production of livestock and poultry, engaged in by a land occupier owning or leasing land, within any existing or proposed irrigation project.

“Government” includes the State and the United States and any political subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

“Land occupier” means the owner or in the case of leased land, the lessee of lands lying within an irrigation project organized or to be organized under this chapter.

“Leased land”, “leasehold”, and similar expressions wherever used in this chapter shall be deemed to include land subject to and held under lease or other tenancy, purchase or homestead agreement; “lease” wherever used in this chapter means such lease, tenancy, purchase, or homestead agreement; “lessor” wherever used in this chapter includes the lessor, landlord, seller, or State as grantor of the homestead; and “lessee” wherever used in this chapter includes the lessee, tenant, purchaser, or homesteader under such lease or other agreement, as the case may be.

“Project” or “irrigation project” means an area, contiguous or non-contiguous, established under this chapter within which water is supplied to the State or the Hawaiian homes commission for the development and opening of lands for farming or to land occupiers engaged in farming.

“Water facility” includes all real and personal property, together with all improvements to the same, acquired or constructed pursuant to a plan or undertaking to provide water within a project for irrigation under this chapter.

“Water tolls” means any charges established by the board for irrigation water supplied by it to the State, the Hawaiian homes commission, and land occupiers.

**§ -3 Engineering program manager.** The board of agriculture shall appoint a registered professional engineer who shall act as engineering program manager of the irrigation water development program and have such qualifications as the board may deem necessary. The appointment and removal of the engineering program manager shall be in accordance with chapters 76 and 77 and the engineering program manager shall perform the duties as set forth by the board.

**§ -4 Interested members of the board or employees.** No member of the board of agriculture or employees of the board shall acquire any interest, direct or indirect, in any water facility or project or in any property, included or planned to be included in any facility or project, nor shall any member of the board or employee of the board have any interest, direct or indirect, in any contract or proposed contract, for materials or services to be furnished



or used in connection with any water facility or project. If any member of the board or employee of the board owns or controls an interest, direct or indirect, in any property included or planned to be included in any water facility or project, the member of the board or employee of the board shall immediately disclose the same in writing to the board and the disclosure shall be entered upon the minutes of the board. The member of the board or employee shall be immediately disqualified from taking any part of the action of the board relative to the water facility or project. Failure to so disclose the interest shall constitute misconduct in office.

§ -5 Powers. In addition to any other powers granted to the board of agriculture for the purpose of carrying out all of its functions and duties, the board shall have the following powers for the purposes of this chapter:

- (1) To acquire by eminent domain, water and water sources either above or underground, watershed, reservoir sites, rights-of-way over lands and property for paths, trails, roads, and landing sites, ditches, tunnels, flumes, reservoirs, and pipelines necessary or proper for the construction and maintenance of water facilities for conveying, distributing, and transmitting water for irrigation and domestic use and for such other purposes as may properly fall within the scope of its activities in creating, managing, controlling, operating, and maintaining irrigation water facilities, any of which purposes shall be held to be for a public use and purpose;
- (2) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the board, including, without prejudice to the generality of the foregoing, contracts and other instruments for the purchase or sale of water and for the purchase or lease of water facilities for irrigation of the area, including but not limited to the production of agricultural products and the land on which the facilities are situated, and for securing to the owners and occupiers of land already using water in a project a priority right to so much water from those of their sources and facilities which are taken over for the project as is required for the purposes or needs of the land, whether agricultural or nonagricultural in nature, as such purposes or needs exist at the inception of the project or are then contemplated in the immediate future;
- (3) To make and from time to time amend and repeal bylaws and rules, not inconsistent with this chapter, which upon compliance with chapter 91 shall have the force and effect of law, to carry into effect the powers and purposes of the board;
- (4) To make surveys for the purposes of determining the engineering and economic feasibility of each project;
- (5) To conduct or have prepared comprehensive studies of the crops, livestock, and poultry which may be profitably grown or produced within each project and the probable market for such crops, livestock, and poultry;
- (6) To conduct feasibility studies of the economic potential of the area;
- (7) To determine the probable costs and value of providing water for irrigation in any proposed project;
- (8) To investigate and make surveys of water resources, including the possibility and feasibility of inducing rain by artificial or other means;

- (9) To define and redefine the boundaries of projects and to consolidate or separate projects, existing or proposed pursuant to this chapter, provided that in the event the redefinition of the boundaries or the consolidation or separation previously effected increased the total amount required to be derived from acreage assessments upon lands within the existing project or projects by more than five per cent or will require an increase in the tolls charged for water supplied to the lands or will reduce the amount of water normally available for distribution to the lands, then the redefinition, consolidation, or separation may be accomplished only after notice has been published and a public hearing held as required for the formation of a project upon the initiative of the board. At the hearing, right to protest and the procedure relative to protest shall be the same as specified in section -17 concerning the formation of projects, and the proposed redefinition of boundaries, consolidation, or separation of projects shall not be accomplished if protests, such as would be sufficient to prevent the action if it were the formation of a project, are filed by owners and lessees of land within the existing projects or projects affected thereby.

The board is empowered, upon petition of land occupiers as provided by section -13, or upon petition of the Hawaiian homes commission or upon its own initiative, to prepare detailed plans for the acquisition or construction of facilities for irrigation or for economic development which in its opinion are economically feasible, to prepare estimates of the probable cost of each, and to prepare estimates of the water tolls and acreage assessments required for the cost of operation and the amortization of the investment of each project, so that the project shall be self-supporting.

§ -6 Further powers. (a) The board of agriculture shall also have power:

- (1) To establish the total amount of acreage assessments to be levied annually within each project;
- (2) To set and from time to time revise tolls which it shall charge for the water provided by its facilities, subject to the rate policies established hereunder; to establish priorities between the several lands included in a project according to the use to which the lands are put or other reasonable basis for classification; to govern the furnishing of water in the event of a shortage of supply and to correlate water tolls with such priorities;
- (3) To charge and collect such tolls, fees, and other charges established in connection herewith;
- (4) To sell, exchange, transfer, assign, or pledge any property, real or personal, or any interest therein, to any person, firm, corporation, or government, except as prohibited by the laws of the State;
- (5) To hold, clear, and improve property;
- (6) To borrow money for any of the purposes hereunder;
- (7) To insure or provide for the insurance of the property or operations of the board against such risks as the board may deem advisable;
- (8) To include in any construction contract let in connection with a project stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions

which the federal government may have attached to its financial aid of the project.

(b) The board shall also have the power to enter into any repayment or other contracts with the United States for the construction, operation, and maintenance of any projects as may be required or provided for by the federal reclamation laws, or acts amendatory thereof or supplementary thereto, or other federal laws, and further to borrow money or accept grants or assistance from the federal government, or any department, bureau, or agency thereof with respect to the engineering, construction, operation, and financing of any project hereunder. The board shall make every effort to obtain all federal aid possible for the purposes of this chapter.

(c) In making surveys, studies, and investigations, in planning and designing, and in constructing projects and facilities for irrigation, the board shall also have power to include therein surveys, studies, and investigations of, plans and designs for, and construction of facilities for flood control and the utilization of water for the production of hydroelectric power, where the same may be practicable in conjunction with the formation and operation of an irrigation project or projects.

§ -7 **Issuance of revenue bonds.** The board of agriculture shall have the power to issue revenue bonds, as provided by part III of chapter 39 to finance in whole or in part, the cost of construction, acquisition, or maintenance of any facility or project hereunder, and, in connection therewith, to pledge for the punctual payment of the bonds, and interest thereon, any and all revenues derived from the project or projects for the construction, acquisition, or maintenance of which the bonds were issued, and the revenue of other or all projects, in an amount sufficient to pay the principal and interest of the bonds as they become due, and to create and maintain reasonable reserves or sinking funds therefor. Funds of the board, not otherwise required, may be advanced to pay necessary expenses incurred in making preparation for the initial issuance of bonds under this chapter, and to take any other action necessary or proper in connection therewith. Any project authorized by this chapter shall be designated an "undertaking" within the meaning of part III of chapter 39 and shall be the public undertaking, the revenues of which are hereby charged with the payment of the principal and interest of the bonds.

§ -8 **Investment of funds.** The director of finance may authorize the investment of any funds held in reserves, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control.

§ -9 **Security for funds deposited by board.** The board of agriculture may by resolution provide that all moneys deposited by it shall be secured:

- (1) By any securities by which funds deposited by the director of finance of the State may be legally secured, as provided in section 38-3; or
- (2) By an undertaking with such sureties as shall be approved by the board faithfully to keep and pay over upon the order of the board any such deposits and agreed interest thereon, and all banks and trust companies are authorized to give any such security for the deposits.

§ -10 **Eligibility of revenue bonds for investment.** It shall be legal for the State and any of its political subdivisions, or any political or public corporation, including the employees retirement system of the State, or any instrumentality of the State, or any insurance company, building and loan

## ACT 306

association, savings bank, trust company, or any bank or other financial institution operating under the laws of the State, or for any personal representative, guardian, trustee, or other fiduciary, or any educational, charitable, or eleemosynary institution to invest their funds or moneys in their custody in the revenue bonds issued hereunder; provided that the foregoing shall not be deemed to obviate or otherwise affect any statutory or other requirement with respect to the use of judgment and care in investing any such funds. No holder of any revenue bonds issued hereunder, however, shall have the right to compel any exercise of the taxing power of the State to pay the bonds or interest thereon.

§ -11 **Rate policy; sale of excess water.** The board of agriculture shall have the power to fix and adjust rates and charges for the furnishing of irrigation or domestic water and for water service so that the revenues derived therefrom may be sufficient to cover the cost of operation, maintenance, and replacement and may make such charges as may be necessary to cover the capital cost of the system or other costs incurred in connection with such system.

Nothing in this chapter shall be construed to prevent the board from selling water to persons other than land occupiers and other consumers within a water project in the event and to the extent that water in excess of the needs of the land occupiers and other consumers may from time to time be available.

§ -12 **Lands included within irrigation projects.** Except as otherwise expressly permitted in the chapter, lands to be included within an irrigation project shall be only those used or to be used in farming. The number of acres of agricultural and pasture land of each land occupier within the project shall be determined by the board of agriculture and shall not be increased or decreased, nor shall any such land included within a project thereafter be withdrawn, after final determination to construct the project, except in the manner and with the limitations specified in this chapter by redefining the boundaries of a project. The project shall include only such lands as can be adequately irrigated by the quantity of water and facilities to be provided under normal conditions of supply. No land which at the time of formation of the project is irrigated, or is devoted to the cultivation for commercial purposes of sugar, pineapples, coffee, bananas, citrus, papayas, or macadamia nuts, or other horticultural crops, whether or not the land so devoted is irrigated, or is being devoted to an industrial or townsite or other use of greater economic value than agriculture shall be included in the project if the owner of the land (or the land occupier thereof if other than the owner, in the event that the land occupier is legally chargeable with the acreage assessments) shall object in writing to the inclusion. The foregoing provisions of this paragraph shall be applicable to all irrigation projects.

Notwithstanding the limitation expressed in the foregoing paragraph, lands of the State used by the University of Hawaii for experimental farms may be included in irrigation projects, provided the board of regents undertakes the payment of water tolls and acreage assessments and for the purposes of the inclusion the University of Hawaii shall be deemed a land occupier within the meaning of this chapter. Lands within the farms shall be assessed accordingly as the same are of the character of agricultural or pasture lands, as defined in this chapter, although they are used for experimental purposes. The assessments shall not, however, become a lien upon the lands.

**§ -13 Petition of land occupiers for formation of water project.** Land occupiers, including the Hawaiian homes commission, comprising at least sixty per cent of the acreage of lands lying within an area proposed to be organized into a water project may file a petition with the board of agriculture requesting that the project be organized. Where any of the lands of the petitioners in the proposed area are leased lands, it shall be necessary for the lessor and lessee to join in the petition. The petition shall contain a general description and the acreage of the area proposed to be organized into a water project and shall state the acreage owned or leased by each of the petitioners within that area. Before the board shall commence any water project involving homesteaded lands of the Hawaiian homes commission, it shall require the commission to assure the payment of any acreage assessment thereon, in pursuance of section 208(5) of the Hawaiian Homes Commission Act, 1920.

**§ -14 Petition of Hawaiian homes commission for formation of irrigation project, community pastures.** The Hawaiian homes commission may petition the board of agriculture to organize irrigation projects for any of the lands designated as "available lands" in the Hawaiian Homes Commission Act, 1920, whether or not the lands are occupied in whole or in part. If the lands for which the proposed project is to be organized are not occupied or are occupied by persons whose rights to occupancy will expire before the project water will be supplied to the lands, no notice need be published nor public hearing held as in section -16 required. Project water may be supplied to community pastures established by the Hawaiian homes commission within any project even though the pastures exceed one hundred acres in area. Before the board commences any irrigation project involving community pastures it shall require agreement from the Hawaiian homes commission that tolls for water supplied to and acreage assessments upon the pastures shall be paid by the commission. Before the board commences any irrigation project involving available lands which the Hawaiian homes commission desires to develop and open for small scale farming it shall require agreement from the Hawaiian homes commission that in the event the development and opening of the lands does not enable the making of acreage assessments sufficient to repay the costs of construction of the project that the same will be paid by the commission. The payments referred to in this section may be made by the Hawaiian homes commission from any of its funds designated or created by Congress for that purpose.

**§ -15 State lands, formation of irrigation project.** The board of agriculture may organize irrigation projects for lands under its control, whether or not the lands are occupied in whole or in part. If the lands for which the proposed project is to be organized are not occupied or are occupied by persons whose rights to occupancy will expire before the project water will be supplied to the lands, no notice need be published nor public hearing held as in section -16 required. The costs of construction of the project, shall be paid by the board, in the event and to the extent that the development and opening of the lands does not enable the making of acreage assessments sufficient to repay construction costs, from any funds in the state treasury derived from the lease or license of public lands or waters, which funds are hereby made available for such purposes.

**§ -16 Consideration of petitions; notice and hearing.** When more than one petition is filed covering portions of the same territory, the board of agriculture may consolidate the petitions. Having received the petitions, on the basis of such evidence as may be submitted to it by the petitioners and on

the findings of investigations or surveys made by or for it, or by other governmental agencies, the board shall establish such irrigation projects as it deems necessary to carry out the purposes of this chapter. Before making a final determination to establish a project or projects, the board shall hold a hearing, notice of which shall be duly advertised in the same manner and form, as nearly as may be, as provided in section -17.

**§ -17 Formation of irrigation project on initiative of board; notice and hearing; protests.** The board of agriculture may organize irrigation projects upon its own initiative. In such event, it shall fix a date for public hearing upon the proposed project, which date shall not be less than sixty days after the first publication of notice thereof in a newspaper of general circulation in the county in which the project is proposed. The notice shall be published once in each of four successive weeks, giving notice of the area to be included in and general details of the proposed project, stating the time and place of the public hearing. If the owners of fifty-five per cent of the acreage of agricultural and pasture lands proposed to be organized into an irrigation project shall at the hearing or prior thereto file written protest against the proposed project, the project shall not be made and proceedings shall not be renewed within twelve months from the date of closing the public hearing, unless each and every owner protesting withdraws each and every owner's protest; provided that any lessee of any agricultural or pasture lands included within the proposed project, who, by the express terms of the lessee's lease must pay the assessment contemplated hereunder shall be subrogated to all the rights of the owner to protest by filing at the hearing or prior thereto written protest against the proposed project, the written protest to be accompanied by a certified copy of the lease; provided further that any lessor may, at any time before the closing of the public hearing, make void the protest of the lessor's lessee on consideration of the filing with the board a duly acknowledged waiver of the provision in the lease which requires the lessee to pay the assessment, and a written undertaking of the lessor to pay the assessment to be made on account of the proposed project; and further provided that a project may be instituted without further advertisement for a smaller acreage within the advertised acreage in the event the board determines the smaller project to be economically feasible, if written protests by the owners, or lessees subrogated to the right to protest, of fifty-five per cent of the smaller acreage shall not be filed.

**§ -18 Approval of legislature, appropriations.** Funds for acquisition or construction of irrigation facilities for each project, established by the board of agriculture under sections -13, -14, -15, and -17, may be requested from the legislature, as an appropriation to be repaid without interest to the general funds of the State by the board from water tolls, acreage assessments, and other receipts of the board within such period as may be specified in the act making the appropriation.

**§ -19 Administration of irrigation project; acreage assessments; liens.** (a) All irrigation projects established pursuant to this chapter shall be administered by the board of agriculture. In making the final determination to establish a project, the board shall determine the proportion of acreage assessments to be borne by the agricultural land and pasture land within the project. The proportion to be borne by pasture land may, in the discretion of the board, be less but not more than the proportion to be borne by agricultural land, in which event the agricultural land shall be first served with water in times of drought or shortage of supply. The proportions to be borne by agricultural and pasture lands shall be certified to the director of taxation

and shall not be changed after final determination to establish the project, except in conjunction with a redefinition of the boundaries of or consolidation or separation of the project and then only in the manner and within the limitations specified in conjunction therewith. The board shall determine and certify to the director of taxation on or before March 31 of each year (1) the amount of acreage assessments necessary in that calendar year for acquisition, construction and maintenance of irrigation facilities for each project, and (2) the acreage of agricultural and pasture land of each land occupier within the project.

(b) Upon the certification the director of taxation or the director's properly authorized deputies or other assistants, shall determine the acreage assessment to be levied against the property of each land occupier in the following manner:

- (1) By determining the amount of acreage assessments to be borne by the agricultural land and the pasture land within the project according to the proportion previously certified to the director by the board;
- (2) By dividing the amount of acreage assessment to be borne by the agricultural land by a number of acres of agricultural land within the project and multiplying the quotient by the number of acres of agricultural land of the occupier within the project; and
- (3) By dividing the amount of acreage assessment to be borne by the pasture land by the number of acres of pasture land within the project and multiplying the quotient by the number of acres of pasture land of the land occupier within the project.

The acreage assessments shall be in addition to any real property taxes, and shall be collected by the director of taxation in the same manner as the taxes. Except in the case of public lands and lands designated as "available lands" under the Hawaiian Homes Commission Act, 1920, acreage assessments shall be a paramount lien against the entire tract, including improvements, of the land occupier of which the assessed agricultural or pasture land or both of the land occupier included within the project forms a part. The lien may be foreclosed in the same manner as liens for real property taxes and in accordance with sections 246-55 to 246-61. In case of the foreclosure of any homestead land pursuant to such sections the foreclosure sale shall be subject to chapter 171. In the case of public lands and lands designated as "available lands" under the Hawaiian Homes Commission Act, 1920, acreage assessments shall not constitute a lien on the property involved and notice of any delinquent acreage assessment shall be served upon the board of land and natural resources or the Hawaiian homes commission, as the case may be, for payment.

(c) Acreage assessments shall be deemed revenues within the meaning of part III of chapter 39 and shall be used for the payment of the principal and interest of any revenue bonds issued hereunder.

(d) Water tolls fixed by the board for each project under this chapter shall be collected by the board under such reasonable rules and procedures as it may establish and may modify from time to time.

(e) All water tolls, acreage assessments, and receipts from properties sold by way of foreclosure for failure to pay acreage assessments shall be realizations of the board.

§ -20 **Furnishing domestic water.** In conjunction with any irrigation project which it has established, and subject to pertinent provisions of law governing the supply, the board of agriculture may establish a system for and

supply water for domestic purposes to residents within and in close proximity to the irrigation project. The system shall be established only if (1) the board determines that it would be advisable and in the public interest to provide the domestic supply; (2) its construction and operation by the board has been consented to by the board of water supply of the county in which the project is situated, and by a majority of the land occupiers within the irrigation project; and (3) if under normal conditions of water availability, the operation of the system will not prejudice or interfere with the supply of irrigation water to the land occupiers within the project. The board may also subject to the limitations previously set forth in this section, take over, improve, and operate any existing system for the supply of domestic water if requested so to do by the owners and operators of the system.

§ -21 **Repayment of certain state advances.** (a) Whenever under legislative authorization, past, present or future, general obligation bonds of the State are issued or the proceeds of general obligation bonds of the State are used, by way of advancement, for the establishment and construction of any specific project under the jurisdiction of the board of agriculture in its irrigation water program, the board may repay the same to the director of finance, upon the expiration of ten years from the time of initial irrigation service to the project, which ten-year term shall be the development period, as repayment on account of the advancement. Such payments shall be made over the period of the next succeeding forty years after the termination of the development period, the total of which payments shall be sufficient to reimburse the State for redemption of the bonds together with interest paid by the State in respect of the same.

(b) The foregoing method of repayment of advances shall be effective for each phase of any multiphase project, the amortization period for the advancement commencing ten years from the time that facilities to provide irrigation service for each new project phase are put into operation.

(c) In the event that changing use of the land in a project substantially increases revenues, or other circumstances make it reasonably possible or desirable for the board to accelerate the amortization of advances it shall be permitted to do so.

§ -22 **Irrigation system revolving fund.** There shall be a special fund to be known as the "irrigation system revolving fund". Moneys in the revolving fund shall be expended for administrative costs, engineering surveys, economic studies, plans, maps, and for other water projects or purposes of the board of agriculture. In the event any moneys are expended therefrom for engineering surveys, economic studies, plans, and other expenses directly attributable to any water project, or for the establishment of any water project, the amount of the expenditures shall be reimbursed to the revolving fund from any funds received by the board for and on account of the project."

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter under title 11, to be appropriately designated and to read as follows:

**“CHAPTER  
IRRIGATION AND WATER UTILIZATION PROJECTS**

§ -1 **Administration of chapter.** The board of agriculture in its irrigation water development program is charged with the administration of this chapter.



§ -2 **Powers.** In addition to any other powers conferred upon the board of agriculture, the board shall have the powers hereinafter set forth. The board shall have the power to make preliminary surveys and engineering studies, and to construct irrigation and water utilization projects, designed to serve and supply the owners and occupants of lands, and to manage, control, operate, and maintain the projects in accordance with this chapter. It shall also have the power to contract with domestic water users including the counties. It shall further have the power to contract with the government of the United States or any bureau or agency thereof with regard to the construction or the financing of a system.

The board shall have power to fix, charge, and collect reasonable water rates for service from the water system to defray the cost of operation, maintenance and replacements of the system. It shall also have the power to acquire by eminent domain, water and water sources either above or underground watersheds, reservoir sites, rights-of-way over lands and property for paths, trails, roads, and landing sites, ditches, tunnels, flumes, reservoirs, and pipelines necessary or proper for the construction and maintenance of a system for conveying, distributing, and transmitting water for irrigation and domestic use and for such other purposes as may properly fall within the scope of its activities in creating, managing, controlling, operating, and maintaining an irrigation and water utilization system. The power of eminent domain shall be exercised in the manner and under the procedure provided by law.

§ -3 **Funds.** The board of agriculture shall pay all receipts and revenues received by it from the operation of an irrigation and water utilization system into the irrigation system revolving fund established under section -22. The fund shall be used and expended for the following purposes:

- (1) Payment of the operating and maintenance costs of the system;
- (2) Repairs, replacements, additions, and extensions;
- (3) Reimbursement to the State the amount of any principal or interest due upon any bond issue under this chapter.

§ -4 **Preference.** To the extent that the same may be necessary from time to time for the satisfaction of their water needs, domestic and agricultural, the Hawaiian homes commission and lessees of the Hawaiian homes commission shall at all times, upon actual need therefor being shown to the board of agriculture, have a prior right to two-thirds of the water developed for the Molokai irrigation and water utilization project by the tunnel development extending to Waikolu valley and ground water developed west of Waikolu valley, which was planned by the board of land and natural resources as the first stage of the Molokai irrigation project.

§ -5 **Irrigation systems account.** (a) There shall be a special account in the irrigation system revolving fund of the board of agriculture to be known as the "irrigation systems account". The director of finance may make temporary use of any portion or all of the money not immediately needed for construction and operation of an irrigation system for the purpose of paying warrants drawn on the treasury for current indebtedness of the State, or for deposit in the state sinking fund for the repayment of bonds, or for investment in state bonds; provided that sufficient of the sums so taken, deposited or invested shall be redeposited to the credit of the irrigation systems account prior to the time when any engagement for the payment from the account falls due.

The moneys from the account shall be expended upon warrants drawn by the comptroller for the purposes of this chapter.

(b) In connection with the construction or operation or maintenance of a project the board may utilize such contributions of labor, materials, and property, including money, as may be allocated or otherwise made available by any person or instrumentality whatsoever, if in the judgment of the board the acceptance thereof, will not limit the scope of construction or operation of a project provided for by this chapter.

(c) Money received and accepted under this section shall be available for expenditure for the purposes for which contributed in like manner as if the sums had been specifically appropriated for such purposes.

(d) Any provision of this chapter or any other state law to the contrary notwithstanding, it is expressly provided that, in the event that it is found possible to secure federal funds made available under any act of Congress to be expended in connection with or for the construction of a project authorized by this chapter, the board may enter into such undertakings with the proper officers or agencies of the federal government, agree to such conditions, and do and perform such other acts and things as may be necessary, or be required by such acts of Congress or any regulations or requirements of the federal government, as a condition to securing the federal funds for the project.

(e) Any other provision of law to the contrary notwithstanding, any bonds issued under this chapter may, with the approval of the governor, be deposited with and pledged to, or be otherwise disposed of to, the United States or any board, agency or instrumentality of the United States government, to secure the repayment, or in actual payment, of any loans or advances made or to be made, under any act or acts of Congress authorizing the loans or advances, by the United States or any such board, agency, or instrumentality to the State for the construction, in whole or in part, of a project authorized under this chapter or the cost of which, or any portion thereof, would be payable or could legally be paid, out of the proceeds of the bonds if sold.

§ -6 **Development period.** The board of agriculture shall fix a development period for a project authorized by this chapter not to exceed ten years from and including the first calendar year in which water is first delivered for the lands in the project. During the development period the board shall annually fix the tolls to be charged for water use and for acreage service charges, so that the cost of operation and maintenance of the project during the development period plus any amounts reimbursable to the State under section -3 will be returned over the full development period.

§ -7 **Construction, when.** No actual construction of the physical features of a project shall be undertaken unless (1) lands or interests in lands deemed by the board of agriculture to be necessary for the construction and operation of the major features of the project works have been secured, or negotiations therefor have been initiated and it is indicated that the lands or interests in lands can be secured, at prices satisfactory to the board; and (2) the board has found (A) that water rights adequate for the purposes of the project have been acquired with titles and at prices satisfactory to the board or have been initiated and can be perfected in conformity with the law of the State and in a manner satisfactory to the board, and (B) that the water rights can be utilized for the purposes of the projects in a manner satisfactory to the board.

§ -8 Rules. The board of agriculture may perform any and all acts and make such rules as may be necessary and proper for the purpose of carrying out this chapter, which upon compliance with chapter 91 shall have the force and effect of law.”

SECTION 3. Section 174-1, Hawaii Revised Statutes, is amended to read as follows:

“§174-1 Findings and declaration of necessity. It is hereby found that it is important to the welfare of the people of Hawaii that the over-all economy of the State including but not limited to agricultural production, be developed as fully as possible. It is further found that water presently tapped for consumption is inadequate for the fullest development of the economy of the State. It is therefore hereby declared that additional [water] land and water facilities are necessary for the development of the over-all economy of the State.

It is the intent of the legislature that no project under this chapter shall be organized in the city and county of Honolulu or other counties without the board of land and natural resources first consulting the board of water supply of the city and county of Honolulu or the water board or department of each county.”

SECTION 4. Section 174-2, Hawaii Revised Statutes, is amended to read as follows:

“§174-2 Definitions. The following terms, whenever used and referred to in this chapter, have the following respective meanings, unless a different meaning clearly appears in the context:

“Acreage assessments” means any levy imposed pursuant to this chapter on the [agricultural and pasture] land within [an irrigation] a project and any amount charged to the State or to the Hawaiian homes commission for the purpose of acquiring, establishing, or maintaining [irrigation] land or water facilities [for an irrigation project].

[“Agricultural land” means that portion of the land of a land occupier as lies within an existing or proposed irrigation project and is of such location and character as may be profitably employed in the growing of irrigated crops; and “pasture land” means that portion of the land of a land occupier as lies within an existing or proposed irrigation project and is of such location and character as may be suitable with the use of water for irrigated pasture and may be profitably employed in the production of livestock or poultry.]

“Board” means the board of land and natural resources.

[“Farming” means agricultural pursuits, including the care and production of livestock and poultry, engaged in by a land occupier owning or having a leasehold of land, within any existing or proposed irrigation project.]

“Government” includes the State and the United States and any political subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

“Land occupier” means the owner or in the case of leased land, the lessee of lands lying within [an irrigation] a project organized or to be organized under this chapter.

“Leased land”, “leasehold”, and similar expressions wherever used in this chapter shall be deemed to include land subject to and held under lease or other tenancy, purchase or homestead agreement; “lease” wherever used herein means such lease, tenancy, purchase or homestead agreement; “lessor” wherever used herein includes the lessor, landlord, seller, or State as

## ACT 306

grantor of the homestead; and "lessee" wherever used herein includes the lessee, tenant, purchaser, or homesteader under such lease or other agreement, as the case may be.

"Project" [or "irrigation project"] means an area, contiguous or non-contiguous, established under this chapter within which water is supplied to the State or the Hawaiian homes commission for the development and opening of lands [for farming] or to land occupiers [engaged in farming].

"Water facility" includes all real and personal property, together with all improvements to the same, acquired or constructed pursuant to a plan or undertaking to provide water within a project [for irrigation or] for economic development, under this chapter.

"Water tolls" means any charges established by the board for [irrigation] water supplied by it to the State, the Hawaiian homes commission, and land occupiers."

SECTION 5. Section 174-4, Hawaii Revised Statutes, is amended to read as follows:

**"§174-4 Interested members of the board or employees.** No member of the board of land and natural resources or employees of the board shall acquire any interest, direct or indirect, in any land or water facility or project or in any property, included or planned to be included in any facility or project, nor shall any member of the board or employee of the board have any interest, direct or indirect, in any contract or proposed contract, for materials or services to be furnished or used in connection with any land or water facility or project. If any member of the board or employee of the board owns or controls an interest, direct or indirect, in any property included or planned to be included in any land or water facility or project, the member of the board or employee of the board shall immediately disclose the same in writing to the board and the disclosure shall be entered upon the minutes of the board. The member of the board or employee shall be immediately disqualified from taking any part in the action of the board relative to the land or water facility or project. Failure to so disclose the interest shall constitute misconduct in office."

SECTION 6. Section 174-5, Hawaii Revised Statutes, is amended to read as follows:

**"§174-5 Powers.** (a) In addition to all the powers granted to the board of land and natural resources in chapter 171 for the purpose of carrying out all of its functions and duties, the board shall have the following powers for the purposes of this chapter:

- (1) To acquire by eminent domain, water and water sources either above or underground, watershed, reservoir sites, rights-of-way over lands and property for paths, trails, roads, and landing sites, ditches, tunnels, flumes, reservoirs, and pipelines necessary or proper for the construction and maintenance of water facilities for conveying, distributing, and transmitting water for [irrigation and] domestic use and for such other purposes as may properly fall within the scope of its activities in creating, managing, controlling, operating, and maintaining [irrigation] water facilities, any of which purposes shall be held to be for a public use and purpose;
- (2) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the board, including, without prejudice to the generality of the foregoing, contracts and other instruments for the purchase or sale of water

and for the purchase or lease of water facilities [for irrigation or] for the over-all economic development of the area, including but not limited to [the production of agricultural products and] the land on which the facilities are situated, and for securing to the owners and occupiers of land already using water in a project a priority right to so much water from those of their sources and facilities which are taken over for the project as is required for the purposes or needs of the land, [whether agricultural or non-agricultural in nature,] as such purposes or needs exist at the inception of the project or are then contemplated in the immediate future;

- (3) To make and from time to time amend and repeal bylaws[,] and rules [and regulations,] not inconsistent with this chapter, which upon compliance with chapter 91 shall have the force and effect of law, to carry into effect the powers and purposes of the board;
- (4) To make surveys for the purpose of determining the engineering and economic feasibility of each project;
- [(5)] To conduct or have prepared comprehensive studies of the crops, livestock and poultry which may be profitably grown or produced within each project and the probable market for such crops, livestock, and poultry;
- (6) (5) To conduct feasibility studies of the economic potential of the area;
- [(7)] (6) To determine the probable costs and value of providing water [for irrigation or] for economic development in any proposed project;
- [(8)] (7) To investigate and make surveys of water resources, including the possibility and feasibility of inducing rain by artificial or other means;
- [(9)] (8) To define and redefine the boundaries of projects and to consolidate or separate projects, existing or proposed pursuant to this chapter, provided that in the event the redefinition of the boundaries of or the consolidation or separation previously effected increases the total amount required to be derived from acreage assessments upon lands within the existing project or projects by more than five per cent or will require an increase in the tolls charged for water supplied to the lands or will reduce the amount of water normally available for distribution to the lands, then the redefinition, consolidation, or separation may be accomplished only after notice has been published and a public hearing held as required for the formation of a project upon the initiative of the board.

At the hearing, right to protest and the procedure relative to protest shall be the same as specified in section 174-17 concerning the formation of projects, and the proposed redefinition of boundaries, consolidation, or separation of projects shall not be accomplished if protests, such as would be sufficient to prevent the action if it were the formation of a project, are filed by owners and lessees of land within the existing project or projects affected thereby.

(b) The board is empowered, upon petition of land occupiers as provided by section 174-13, or upon petition of the Hawaiian homes commission or upon its own initiative, to prepare detailed plans for the acquisition or construction of facilities [for irrigation or] for economic development which in its opinion are economically feasible, to prepare estimates of the probable cost of each, and to prepare estimates of the water tolls and

## ACT 306

acreage assessments required for the cost of operation and the amortization of the investment of each project, so that the project shall be self-supporting.”

SECTION 7. Section 174-6, Hawaii Revised Statutes, is amended to read as follows:

“§174-6 Further powers. (a) The board of land and natural resources shall also have power:

- (1) To establish the total amount of acreage assessments to be levied annually within each project;
- (2) To set and from time to time revise tolls which it shall charge for the water provided by its facilities, subject to the rate policies established hereunder; to establish priorities between the several lands included in a project according to the use to which the lands are put or other reasonable basis for classification; to govern the furnishing of water in the event of a shortage of supply and to correlate water tolls with such priorities;
- (3) To charge and collect such tolls, fees, and other charges established in connection herewith;
- (4) To sell, exchange, transfer, assign, or pledge any property, real or personal, or any interest therein, to any person, firm, corporation, or government, except as prohibited by the laws of the State;
- (5) To hold, clear, and improve property;
- (6) To borrow money for any of the purposes hereunder;
- (7) To insure or provide for the insurance of the property or operations of the board against such risks as the board may deem advisable;
- (8) To include in any construction contract let in connection with a project stipulations requiring that the contractor and any sub-contractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

The board shall also have the power to enter into any repayment or other contracts with the United States for the construction, operation, and maintenance of any projects as may be required or provided for by the federal reclamation laws, or acts amendatory thereof, or supplementary thereto, or other federal laws, and further to borrow money or accept grants or assistance from the federal government, or any department, bureau, or agency thereof with respect to the engineering, construction, operation, and financing of any project hereunder. The board shall make every effort to obtain all federal aid possible for the purposes of this chapter.

(b) In making surveys, studies, and investigations, in planning and designing, and in constructing projects and facilities [for irrigation and] for economic development, the board shall also have power to include therein surveys, studies, and investigations of, plans and designs for and construction of facilities for flood control and the utilization of water for the production of hydroelectric power, where the same may be practicable in conjunction with the formation and operation of [an irrigation] a project or projects.”

SECTION 8. Section 174-11, Hawaii Revised Statutes, is amended to read as follows:

**“§174-11 Rate policy; sale of excess water.** The board of land and natural resources shall have the power to fix and adjust rates and charges for the furnishing of [irrigation or] domestic water and for water service so that the revenues derived therefrom may be sufficient to cover the cost of operation, maintenance, and replacement and may make such charges as may be necessary to cover the capital cost of the system or other costs incurred in connection with such system.

Nothing in this chapter shall be construed to prevent the board from selling water to persons other than land occupiers and other consumers within a water project in the event and to the extent that water in excess of the needs of the land occupiers and other consumers may from time to time be available.”

SECTION 9. Section 174-16, Hawaii Revised Statutes, is amended to read as follows:

**“§174-16 Consideration of petitions; notice and hearing.** When more than one petition is filed covering portions of the same territory, the board of land and natural resources may consolidate the petitions. Having received the petitions, on the basis of such evidence as may be submitted to it by the petitioners and on the findings of investigations or surveys made by or for it, or by other governmental agencies, the board shall establish such [irrigation] projects as it deems necessary to carry out the purposes of this chapter. Before making a final determination to establish a project or projects, the board shall hold a hearing, notice of which shall be duly advertised in the same manner and form, as nearly as may be, as [in the following section] provided in section 174-17.”

SECTION 10. Section 174-17, Hawaii Revised Statutes, is amended to read as follows:

**“§174-17 Formation of [irrigation] a project on initiative of board; notice and hearing; protests.** The board of land and natural resources may organize [irrigation] projects upon its own initiative. In such event, it shall fix a date for public hearing upon the proposed project, which date shall not be less than sixty days after the first publication of notice thereof in a newspaper of general circulation in the county in which the project is proposed. The notice shall be published once in each of four successive weeks, giving notice of the area to be included in and general details of the proposed project, stating the time and place of the public hearing. If the owners of fifty-five per cent of the acreage of [agricultural and pasture] lands proposed to be organized into [an irrigation] a project shall at the hearing or prior thereto file written protest against the proposed project, the project shall not be made and proceedings shall not be renewed within twelve months from the date of closing the public hearing, unless each and every owner protesting withdraws each and every owner's protest; provided that any lessee of any [agricultural or pasture] lands included within the proposed project, who, by the express terms of the lessee's lease must pay the assessment contemplated hereunder shall be subrogated to all the rights of the owner to protest by filing at the hearing or prior thereto written protest against the proposed project, the written protest to be accompanied by a certified copy of the lease; provided further that any lessor may, at any time before the closing of the public hearing, make void the protest of the lessor's lessee on consideration of the filing with the board a duly acknowledged waiver of the provision in the lease which requires the lessee to pay the assessment, and a written undertaking of the lessor to pay the assessment to be made on account of the proposed project; and further provided that a

project may be instituted without further advertisement for a smaller acreage within the advertised acreage in the event the board determines the smaller project to be economically feasible, if written protests by the owners, or lessees subrogated to the right to protest, of fifty-five per cent of the smaller acreage shall not be filed."

SECTION 11. Section 174-18, Hawaii Revised Statutes, is amended to read as follows:

**"§174-18 Approval of legislature, appropriations.** Funds for acquisition or construction of [irrigation] facilities for each project, established by the board of land and natural resources under sections 174-13[, 174-14, 174-15] and 174-17, may be requested from the legislature, as an appropriation to be repaid without interest to the general funds of the State by the board from water tolls, acreage assessments, and other receipts of the board within such period as may be specified in the act making the appropriation."

SECTION 12. Section 174-19, Hawaii Revised Statutes, is amended to read as follows:

**"§174-19 Administration of [irrigation] project; acreage assessments; liens.** All [irrigation] projects established pursuant to this chapter shall be administered by the board of land and natural resources. In making the final determination to establish a project, the board shall determine the proportion of acreage assessments to be borne by the [agricultural land and pasture] land within the project. [The proportion to be borne by pasture land may, in the discretion of the board, be less but not more than the proportion to be borne by agricultural land, in which event the agricultural land shall be first served with water in times of drought or shortage of supply. The proportions to be borne by agricultural and pasture lands shall be certified to the director of taxation and shall not be changed after final determination to establish the project, except in conjunction with a redefinition of the boundaries of or consolidation or separation of the project and then only in the manner and within the limitations specified in conjunction therewith.] The board shall determine and certify to the director of taxation on or before March 31 of each year (1) the amount of acreage assessments necessary in that calendar year for acquisition, construction and maintenance of [irrigation] facilities for each project, and (2) the acreage of [agricultural and pasture land of] each land occupier within the project.

Upon the certification the director of taxation or the director's properly authorized deputies or other assistants, shall determine the acreage assessment to be levied against the property of each land occupier [in the following manner:

- (1) By by determining the amount of acreage assessments to be borne by the [agricultural land and the pasture] land within the project according to the proportion previously certified to the director by the board[;].
- [(2) By dividing the amount of acreage assessment to be borne by the agricultural land by a number of acres of agricultural land within the project and multiplying the quotient by the number of acres of agricultural land of the occupier within the project; and
- (3) By dividing the amount of acreage assessment to be borne by the pasture land by the number of acres of pasture land within the project and multiplying the quotient by the number of acres of pasture land of the land occupier within the project.]

The acreage assessments shall be in addition to any real property taxes, and shall be collected by the director of taxation in the same manner as the taxes.



Except in the case of public lands and lands designated as "available lands" under the Hawaiian Homes Commission Act, 1920, acreage assessments shall be a paramount lien against the entire tract, including improvements, of the land occupier of which the assessed [agricultural or pasture] land or both of the land occupier included within the project forms a part. The lien may be foreclosed in the same manner as liens for real property taxes and in accordance with sections 246-55 to 246-61. In case of the foreclosure of any homestead land pursuant to such sections the foreclosure sale shall be subject to chapter 171. In the case of public lands and lands designated as "available lands" under the Hawaiian Homes Commission Act, 1920, acreage assessments shall not constitute a lien on the property involved and notice of any delinquent acreage assessment shall be served upon the board of land and natural resources or the Hawaiian homes commission, as the case may be, for payment.

Acreage assessments shall be deemed revenues within the meaning of part III of chapter 39 and shall be used for the payment of the principal and interest of any revenue bonds issued hereunder.

Water tolls fixed by the board for each project under this chapter shall be collected by the board under such reasonable rules and procedures as it may establish and may modify from time to time.

All water tolls, acreage assessments, and receipts from properties sold by way of foreclosure for failure to pay acreage assessments shall be realizations of the board."

SECTION 13. Section 174-20, Hawaii Revised Statutes, is amended to read as follows:

**"§174-20 Furnishing domestic water.** In conjunction with any [irrigation] project which it has established, and subject to pertinent provisions of law governing the supply, the board of land and natural resources may establish a system for and supply water for domestic purposes to residents within and in close proximity to the [irrigation] project. The system shall be established only if (1) the board determines that it would be advisable and in the public interest to provide the domestic supply; (2) its construction and operation by the board has been consented to by the board of water supply of the county in which the project is situated, and by a majority of the land occupiers within the [irrigation] project; and (3) if under normal conditions of water availability, the operation of the system will not prejudice or interfere with the supply of [irrigation] water to the land occupiers within the project. The board may also subject to the limitations previously set forth in this section, take over, improve, and operate any existing system for the supply of domestic water if requested so to do by the owners and operators of the system."

SECTION 14. Section 174-21, Hawaii Revised Statutes, is amended to read as follows:

**"§174-21 Repayment of certain state advances.** Whenever under legislative authorization, past, present or future, general obligation bonds of the State are issued or the proceeds of general obligation bonds of the State are used, by way of advancement, for the establishment and construction of any specific project under the jurisdiction of the board of land and natural resources in its water program, the board may repay the same to the director of finance, upon the expiration of ten years from the time of initial [irrigation] service to the project, which ten-year term shall be the development period, as repayment on account of the advancement. Such payments shall

## ACT 306

be made over the period of the next succeeding forty years after the termination of the development period, the total of which payments shall be sufficient to reimburse the State for redemption of the bonds together with interest paid by the State in respect of the same.

The foregoing method of repayment of advances shall be effective for each phase of any multiphase project, the amortization period for the advancement commencing ten years from the time that facilities to provide [irrigation] service for each new project phase are put into operation.

In the event that changing use of the land in a project substantially increases revenues, or other circumstances make it reasonably possible or desirable for the board to accelerate the amortization of advances it shall be permitted to do so."

SECTION 15. Section 174-22, Hawaii Revised Statutes, is amended to read as follows:

**"§174-22 [Water] Land and water development revolving fund.** There shall be a special fund to be known as the "land and water development revolving fund". Moneys in the revolving fund shall be expended for administrative costs, engineering surveys, economic studies, plans, maps, and for other water projects or purposes of the board of land and natural resources. In the event any moneys are expended therefrom for engineering surveys, economic studies, plans, and other expenses directly attributable to any land or water project, or for the establishment of any land or water project, the amount of the expenditures shall be reimbursed to the revolving fund from any funds received by the board for and on account of the project."

SECTION 16. Section 174-12, Hawaii Revised Statutes, is repealed.

SECTION 17. Section 174-14, Hawaii Revised Statutes, is repealed.

SECTION 18. Section 174-15, Hawaii Revised Statutes, is repealed.

SECTION 19. Chapter 175, Hawaii Revised Statutes is repealed.

SECTION 20. There is established in the department of agriculture the position of engineering program manager in accordance with chapters 76 and 77, Hawaii Revised Statutes; provided that of the general fund appropriation for general administration for agriculture (AGR 192), the sum of \$31,848 shall be used for this purpose. The engineering program manager shall act as manager of the irrigation water development program, shall have such qualifications as the board of agriculture may deem necessary, and shall perform the duties set forth by the board. All rights, powers, functions, and duties of the board of land and natural resources relating to the Molokai irrigation system, the Waimanalo irrigation system, and the Lalamilo irrigation system are transferred to the board of agriculture.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

In the event that an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

**SECTION 21.** All appropriations, assets contained in revolving funds, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property, and all water facilities, including real property together with all improvements to the same, heretofore made, constructed, used, acquired, or held by the board of land and natural resources relating to the functions transferred to the board of agriculture shall be transferred with the functions to which they relate.

**SECTION 22.** Statutory material to be repealed is bracketed. New statutory material is underscored<sup>1</sup>.

**SECTION 23.** This Act shall take effect two years from the effective date of enactment of a state water code; provided that the department of agriculture and the department of land and natural resources shall begin to prepare the necessary regulation and organizational support to implement sections 20 and 21 of this Act upon its passage.

(Approved June 25, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 307**

**S.B. NO. 548**

**A Bill for an Act Relating to the Escheat of Kuleana Lands.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 560, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§560- Escheat of kuleana lands. a)**<sup>1</sup> Any provision of law to the contrary notwithstanding, if the owner of an inheritable interest in kuleana land dies intestate, or dies partially intestate and that partial intestacy includes the decedent's interest in the kuleana land, and if there is no taker under article II, such inheritable interest shall pass to the department of land and natural resources to be held in trust until the office of Hawaiian affairs develops a land management plan for the use and management of such kuleana properties, and such plan is approved by the department of land and natural resources. Upon approval, the department of land and natural resources shall transfer such kuleana properties to the office of Hawaiian affairs. For the purposes of this section, “kuleana lands” means those lands

## ACT 308

granted to native tenants pursuant to L. 1850, p. 202 entitled "An Act Confirming Certain Resolutions of the King and Privy Council, Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges", as originally enacted and as amended."

SECTION 2. Section 532-15, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored<sup>2</sup>.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 308

S.B. NO. 1007

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 325, Hawaii Revised Statutes, is amended by adding a new section, to be appropriately designated and to read as follows:

**“§325- Informed consent for testing or disclosure.** (a) No health care provider, blood bank, plasma center, or any other public or private agency, institution, or individual may subject a person's body fluids or tissue to a test for the presence of human immunodeficiency virus (HIV) infection unless the subject of the test first provides informed written consent to the testing.

(b) Consent to testing is not required for any of the following:

- (1) Anatomical gifts. A health care provider or organ donor center which procures, processes, distributes, or uses human body parts donated for scientific purposes may, without obtaining consent to the testing, test for the presence of HIV in order to assure medical acceptability of the gift for the purpose intended.
- (2) Research. The department, laboratories and research facilities, health care providers, blood banks, plasma centers, and educational institutions may subject any body fluids or tissue to be used in research to a test for HIV infection if the test is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.
- (3) Anonymous testing carried out at HIV test sites established by the department provided that informed verbal consent is obtained.
- (4) Testing of body fluids or tissue which is ordered by a third party, so long as that third party, including but not limited to an insurance company, employer, or school, obtains the informed written consent of the person to be tested authorizing the release of the test results to the third party, and transmits a signed copy of the written informed consent to the health provider prior to any release of the requested test results to the third party.

- (5) Health and safety of the client. Informed consent is not required when there is reason to believe that the safety of the client may be in imminent jeopardy because of possible HIV infection.
- (6) Health and safety of health care providers. Informed consent is not required when there is reason to believe that the safety of health care providers may be in imminent jeopardy due to exposure to the blood or bodily fluids of a patient suspected of possible HIV infection.

(c) Confidentiality. The confidentiality of all records held pursuant to this section is governed by section 325-101.

(d) Civil penalty. Any person or institution who willfully violates any provision of this section shall be fined not less than \$1,000 nor more than \$10,000 for each violation plus reasonable court costs and attorney's fees as determined by the court, which penalty and costs shall be paid to the person whose records were released. This subsection shall not be construed as limiting the right of any person or persons to recover actual damages.

(e) Good faith exception. No health care provider, blood bank, plasma center, or any other public or private agency, institution, or individual, which, in good faith, provides results of any test for the presence of HIV infection to a specified third party as the result and in response to an informed written consent by the person to be tested, shall be in violation of confidentiality requirements pursuant to this section and governed by section 325-101 if the test results later prove to be false or otherwise defective."

SECTION 2. If any provision of this Act or the application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. New statutory material is underscored<sup>1</sup>.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 309**

S.B. NO. 1072

A Bill for an Act Relating to Administration of Hospitals.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 27-22.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The appointment of hospital administrators and assistant administrators shall be made on an exempt basis by the director of health after June 30, 1983. Hospital administrators and assistant administrators appointed before July 1, 1983, shall maintain their permanent civil service status as provided in chapters 76 and 77. A hospital administrator or assistant administrator with civil service status shall be granted leave without pay by the director of health for employment in an exempt hospital administrator or assistant administrator position in the county/state hospitals division of the department of health; provided that the leave is for a

## ACT 310

period not to exceed four years from the date of the exempt appointment and may be extended, by the director of health, for an additional four years. Upon reinstatement in the former position, the employee shall be compensated as though the employee had remained continuously in the position in which the employee last held a permanent appointment."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

## ACT 310

S.B. NO. 1164

A Bill for an Act Relating to Pesticides.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 149A-2, Hawaii Revised Statutes, is amended to read as follows:

**"§149A-2 Definitions.** As used in this chapter, unless the context clearly requires otherwise:

[(1)] "Active ingredient" means:

[(A)] (1) In the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate any [pests;] pest;

[(B)] (2) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or [rate of] maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

[(C)] (3) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

[(D)] (4) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissues.

[(2)] "Adulterated" means any pesticide if its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted.

[(3)] "Animal" means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

[(4)] "Board" means board of agriculture.

[(5)] "Certified pesticide applicator" means any individual who is certified under section 149A-33(1) as authorized to use or supervise the use of any pesticide which is classified for restricted use.

[(6)] ["Chairman"] "Chairperson" means [chairman] chairperson of the board of agriculture.

[(7)] "Commercial pesticide applicator" means any certified pesticide applicator, whether or not the applicator is a private pesticide applicator with respect to some uses, who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by section 149A-2(28).

[(8)] "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, [with] causing or without causing abscission.

[(9)] "Department" means department of agriculture.

[(10)] "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

[(11)] "Device" means any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any form of plant or animal life (other than man and other than bacteria, [virus,] viruses, or other [micro-organism] microorganisms on or [in] living in man or other animals); but not including equipment used for application of pesticides when sold separately therefrom.

[(12)] "Environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

"EPA" means the United States Environmental Protection Agency.

"FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act, as amended.

[(13)] "Fungi" means all nonchlorophyll-bearing thallophytes including rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or living in man or other animals and those on or in processed foods, beverages, or pharmaceuticals.

[(14)] "General use pesticide" means a pesticide other than one designated as restricted pesticide.

[(15)] "Imminent hazard" means a situation which exists when the continued use of a pesticide during the time required for a cancellation proceeding would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of the Interior under [Public Law 91-135.] the Endangered Species Act.

[(16)] "Inert ingredient" means an ingredient which is not an active ingredient.

[(17)] "Ingredient statement" means:

[(A)] (1) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide; and

[(B)] (2) In case the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

[(18)] "Insect" means invertebrate animals belonging to the class insecta, including beetles, bugs, bees, flies, and other allied classes of arthropods, including spiders, mites, ticks, centipedes, and wood lice.

[(19)] "Label" means the written, printed, or graphic matter[,] on or attached to the pesticide or device[,] or any of its containers or wrappers.

[(20)] "Labeling" means all labels and other written, printed, or graphic matter accompanying the pesticide or device at any time or to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the [Environmental Protection Agency,] EPA, the United States Departments of Agriculture and the Interior, the United States Department of [Health, Education, and Welfare,] Health and Human Services, state experiment stations, state agriculture colleges, or other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

[(21)] "License" means the process of being allowed to register a pesticide product pursuant to provisions of this chapter. "Licensee" means a

## ACT 310

person who has been licensed to register a product pursuant to provisions of this chapter.

[(22)] "Misbranded" includes any of the following:

- [(A)] (1) The labeling of the pesticide or device bears any statement, design, or graphic representation relative thereto or to its ingredients or functions which is false or misleading in any particular;
- [(B)] (2) The pesticide is contained in a package or other container or wrapping which does not conform to the standards established by federal law;
- [(C)] (3) The pesticide is an imitation [of,] or is offered for sale under the name of[, ] another pesticide;
- [(D)] (4) The label does not bear the federal registration number assigned to each establishment in which it was produced;
- [(E)] (5) Any word, statement, or other information required by or under authority of the federal law to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in [such] terms [as] to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- [(F)] (6) The labeling accompanying the pesticide does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under [the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended,] FIFRA are adequate to protect health and the environment;
- [(G)] (7) The label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under federal law, is adequate to protect health and the environment;
- [(H)] (8) The label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper of the retail package, if there be one, through which the ingredient statement on the immediate container cannot be clearly read) which is presented or displayed under customary conditions of purchase, except that a pesticide is not misbranded under this section if:
  - [(i)] (A) The size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and
  - [(ii)] (B) The ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the department;
- [(I)] (9) The labeling does not contain a statement of the use classification under which the product is registered;
- [(J)] (10) There is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing:



- [(i)] (A) The name and address of the producer, registrant, or person for whom produced;
  - [(ii)] (B) The name, brand, or trademark under which the pesticide is sold;
  - [(iii)] (C) The net weight or measure of the content; provided that the [United States Environmental Protection Agency] EPA Administrator may permit reasonable variations; and
  - [(iv)] (D) When required by federal regulations to effectuate the purposes of this law, the registration number assigned to the pesticide under federal law[,] and the use classification; and
- [(K)] (11) The pesticide contains any substance or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by this law:
- [(i)] (A) The skull and crossbones;
  - [(ii)] (B) The word "poison" prominently in red on a background of distinctly contrasting color; and
  - [(iii)] (C) A statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

[(23)] "Nematode" means invertebrate animals of the phylum nemathelminthes and the class nematoda, including unsegmented roundworms with elongated fusiform[,] or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts.

"Non-restricted use pesticide" means a pesticide other than one designated as restricted use pesticide.

[(24)] "Person" means any individual, firm, corporation, association, or partnership[,] or any organized group of persons whether incorporated or not.

[(25)] "Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, [bacteria,] bacterium, or any other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which the board declares to be a pest.

[(26)] "Pesticide" means:

[(A)] (1) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and

[(B)] (2) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

[(27)] "Plant regulator" means any substance or mixture of substances[,] intended, through physiological action, for accelerating or retarding the rate of growth or [rate of] maturation[,] or for otherwise altering the behavior of plants or the produce thereof, but does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

[(28)] "Private pesticide applicator" means a certified pesticide applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by the applicator or the applicator's employer if applied without compensation other than trading of personal services between producers of agricultural commodities on the property of another person.

[(29)] "Producer" means any person who manufactures, prepares, compounds, propagates, or processes any pesticide or device. "Produce"

## ACT 310

means to manufacture, prepare, compound, propagate, or process any pesticide or device.

[(30)] "Protect health and the environment" or "protection of health and the environment" means protection against unreasonable adverse effects on the environment.

[(31)] "Restricted use pesticide" means:

[(A)] (1) A pesticide or pesticide use classified by the Administrator, EPA, for use by certified applicators or competent persons under their direct supervision and so designated on its label; or

[(B)] (2) A pesticide or pesticide use classified by the board for use by certified applicators or competent persons under their direct supervision.

[(32)] "Registrant" means the person registering or licensing any pesticide pursuant to this chapter.

[(33)] "Sell or distribute" means to distribute, solicit, sell, offer for sale, hold for sale, transport, or deliver for transportation in intrastate commerce or between points within the State through any point outside the State.

[(34)] "Under the direct supervision of a certified applicator" means, unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though [such] the certified applicator is not physically present at the time and place the pesticide is applied.

[(35)] "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of the pesticide.

[(36)] "Weed" means any plant which grows where not wanted."

SECTION 2. Section 149A-3, Hawaii Revised Statutes, is amended to read as follows:

"§149A-3 Delegation of duties. All authority vested in the board or [chairman] chairperson by virtue of this chapter may with like force and effect be exercised by [such] those employees of the department as the board or [chairman] chairperson may from time to time designate for the purpose."

SECTION 3. Section 149A-11, Hawaii Revised Statutes, is amended to read as follows:

"§149A-11 Prohibited acts. (a) Except as otherwise exempted in section 149A-12, it shall be unlawful for any person to distribute, solicit, sell, offer for sale, hold for sale, transport, deliver for transportation, or receive and having so received, deliver or offer to deliver to any person in intrastate commerce or between points within this State through any point outside this State any of the following:

(1) Any pesticide which is not licensed pursuant to section 149A-13, or any pesticide if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its licensing, or if the composition of a pesticide differs from its composition as represented in connection with its licensing; provided that in the discretion of the department, a change in the labeling or formula of a pesticide

may be made within a licensing period without requiring an additional licensing of the product.

- (2) Any pesticide unless it is in the licensee's or the manufacturer's unbroken immediate container, and there is affixed to the container[,], and to the outside container or wrapper of the retail package, if any, through which the required information on the immediate container cannot be clearly read, a label bearing [such] information pursuant to section 149A-15.
- (3) Any pesticide which contains any substance or substances in quantities highly toxic to man, determined as provided in section 149A-19, unless the label bears, in addition to any other matter required by this chapter:
  - (A) A symbol of the skull and crossbones;
  - (B) The word "POISON" prominently, in red, on a background of distinctly contrasting color; and
  - (C) A statement of emergency medical treatment or an antidote when appropriate for the pesticide.
- (4) [The pesticides] Pesticides containing any of the ingredients commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, or barium fluosilicate, unless they have been distinctly colored or discolored, or any other white powder pesticide which the board[, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration,] requires to be distinctly colored or discolored[, after investigation of and after a public hearing on the necessity for and feasibility of coloring or discoloring the pesticide for the protection of the public health, unless it has been so colored or discolored pursuant to section 149A-16.
- (5) Any pesticide or device which is adulterated or misbranded as defined in section 149A-2.
- (6) Any pesticide or device that is an imitation of another pesticide or device.
- (7) Any restricted use pesticide unless the person has a permit issued in accordance with section 149A-17.
- (8) Any restricted use pesticide to persons other than a certified pesticide applicator or any uncertified personnel under the certified pesticide applicator's supervision, or a licensed dealer, wholesaler, or retailer.
- (b) It shall be unlawful to:
  - (1) Detach, alter, deface, or destroy, in whole or in part, any label or alter any labeling of a pesticide unless [such action is taken with the approval of] it is approved by the department to correct an improper label or labeling under section 24(c), [Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended.] FIFRA.
  - (2) Add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this chapter.
  - (3) Use for a person's own advantage or to reveal any information relative to formulas of products acquired in the administration of this chapter, to persons other than to the [chairman] chairperson or proper officials or employees of the State or the federal government[, or]; to the courts of this State or the federal government in response to a subpoena[, or]; to physicians[,]; or, in

emergencies, to pharmacists and other qualified persons for use in the preparation of antidotes.

- (4) For any pesticide dealer, wholesaler, or retailer to expose or to offer for sale or to solicit or receive orders for the sale of restricted use pesticides unless the dealer, wholesaler, or retailer has applied for and has obtained a license from the department.
- (5) For any pesticide dealer, wholesaler, or retailer to expose or to offer for sale or to solicit or receive orders for the sale of restricted use pesticides to any person other than a certified pesticide applicator.
- (6) For any pesticide dealer, wholesaler, or retailer to make any verbal or written claim or representation relating to any pesticide product that is inconsistent with the specific pesticide product label.”

SECTION 4. Section 149A-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The prohibitions of section 149A-11(a) shall not apply to:
- (1) Any carrier while lawfully engaged in transporting a pesticide within this State, if the carrier, upon request of the [chairman] chairperson or the [chairman’s] chairperson’s duly designated officer or employee, permits [such] the officer or employee to copy all records showing the transactions in and movement of the pesticide or device;
  - (2) Public officials of the State and the federal government engaged in the performance of their official duties in administering state or federal pesticide law or [regulation;] rule;
  - (3) The manufacturer or shipper of a pesticide intended only for experimental use:
    - (A) By or under the supervision of an agency of the State or of the federal government authorized by law to conduct research in the field of pesticides;
    - (B) If the pesticide is not sold and if the container [thereof] is plainly and conspicuously marked “For Experimental Use Only — Not to be Sold” together with the manufacturer’s name and address;
  - (4) Any person who establishes a guaranty signed by, and containing the name and address of, the licensee or person residing in the United States from whom the person purchased or received in good faith the pesticide in the same unbroken package, to the effect that the pesticide was lawfully licensed at the time of sale and delivery to the person and it complies with the other requirements of FIFRA[, as amended, and in such]. In this case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of FIFRA[, as amended]; and
  - (5) Any person using or possessing any pesticide as provided by an experimental use permit in effect with respect to [such] that pesticide and [such] that use or possession.”

SECTION 5. Section 149A-13, Hawaii Revised Statutes, is amended to read as follows:

“§149A-13 Procedure for licensing pesticides. (a) Any pesticide which is received, used, sold, offered for sale, or distributed[,] within this State [or

delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State] shall be licensed by the board; provided that products which have the same formula, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same pesticide, may be licensed as a single pesticide, and additional names and labels shall be added by supplemental statements during the current period of licensing]. Any pesticide product which has been sold in this State but for which the license is not renewed can be used by the purchaser. However, the product cannot be sold, resold, or distributed within the State before its license is renewed. The licensee shall file with the department a statement including:

- (1) The name and address of the licensee and the name and address of the person whose name will appear on the label, if other than the licensee;
- (2) The name of the pesticide;
- (3) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including directions for use; and
- (4) If requested by the department, a full description of the tests made and the results thereof upon which the claims are based.

(b) The licensee shall pay a minimum fee of \$10 for each year, or fraction thereof, that the pesticide is licensed, provided that the minimum annual fee for a restricted use pesticide shall be \$30. Licensing fees may be increased from time to time by [regulations] rules and may vary according to the amount or quantity of pesticide to be sold, offered for sale, or distributed. The term of the license shall be for a period of three years, beginning January 1, 1982, expiring on December 31, 1984, and on December 31 of each third year thereafter. In case of renewal of license, a statement shall be required only with respect to information which is different from that furnished when the pesticide was licensed or last relicensed. All fees collected shall be deposited in the general fund of the State.

(c) When a licensee discontinues the distribution of a pesticide which has been licensed in this State, the licensee will be required to continue licensing of this pesticide until no more remains on the retailer's shelves, or for three years after written notice to the department of the date of discontinuance; provided that the continued sale is not specifically prohibited by the department or the EPA.

[(c)] (d) The department, whenever it deems necessary in the administration of this chapter, may require the submission of the complete formula of any pesticide. If it appears to the department that the composition of the pesticide is [such] complete as to warrant the proposed claims for it and if the pesticide and its labeling and other material required to be submitted comply with the requirements of section 149A-15, the department shall license the pesticide.

[(d)] (e) Notwithstanding any other provision of this chapter, licensing of a pesticide is not required in the case of a pesticide shipped from one plant within this State to another plant within this State when both plants are operated by the same person."

SECTION 6. Section 149A-14, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The department may refuse to license a pesticide when it has been determined that:

## ACT 310

- (1) The pesticide or its labeling does not comply with this chapter or the [regulations promulgated thereunder;] rules adopted under this chapter; or
- (2) The licensee fails to comply with the licensing procedures set forth by [regulations] rules; or
- (3) The claims, representations, or other statements on the label are false or misleading; or
- (4) The proposed use would result in unreasonable adverse effect on the environment.

(b) To protect the health and environment, the department may, after hearing, cancel the license of a pesticide. [Such] This cancellation shall be made after the department has determined that the continued use of the pesticide would result in unreasonable adverse effects on the environment.”

SECTION 7. Section 149A-15, Hawaii Revised Statutes, is amended to read as follows:

“**§149A-15 Labeling requirements.** Each container of pesticides shall bear [thereon] or have attached [thereto] in a conspicuous place, a plainly written or printed label in the English language providing the following information:

- (1) Name, brand, or trademark under which the pesticide is sold or distributed;
- (2) Ingredient statement as specified by [regulations;] rules;
- (3) Direction for use which if complied with will adequately protect the health and environment;
- (4) Warning or caution statement as specified by [regulations;] rules;
- (5) Name and address of the manufacturer, registrant, or person for whom manufactured;
- (6) Weight or measure of content;
- (7) The [United States Environmental Protection Agency] EPA registration and establishment numbers; and
- (8) Any other labeling requirement as prescribed under FIFRA[, as amended].”

SECTION 8. Section 149A-16, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Pesticides known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, or barium fluosilicate shall be distinctly colored as specified by [regulation.] rule.”

SECTION 9. Section 149A-17, Hawaii Revised Statutes, is amended to read as follows:

“**§149A-17 Sales, permit, and record.** In addition to licensing requirements applicable to pesticides, every person who sells or distributes restricted use pesticides shall obtain an annual permit from the department. Conditions, procedures, and fees for the permit shall conform to the [regulations promulgated hereunder.] rules adopted under this section.

All persons permitted to sell restricted use pesticides shall keep records of the individual sales of [such] these pesticides. Records shall be kept at the principal place of business of the permittee for a period specified by [rules and regulations] the rules and shall be available to the department on request.”

SECTION 10. Section 149A-18, Hawaii Revised Statutes, is amended to read as follows:

“§149A-18 Denial, suspension, or revocation of permit. The department may deny issuance of a permit to sell a restricted use pesticide for reasonable cause. Any permit issued pursuant to [regulations] rules adopted under section 149A-17 may be suspended or revoked by the department, after due hearing, for violation of any condition of the permit or of any law or [regulation] rule pertaining to the sale of pesticides.

Any order made by the department for the suspension or revocation of a permit shall be in writing and shall set forth the reasons for the suspension or revocation.

The action of the department in suspending or in revoking a permit may be reviewed in the manner provided by chapter 91.”

SECTION 11. Section 149A-19, Hawaii Revised Statutes, is amended to read as follows:

“§149A-19 Determination; rules [and regulations]; uniformity. (a) The board [shall], after having afforded interested and affected parties an opportunity to be heard and, in instances in which human health is affected, after consultation with the director of health, shall make and adopt [regulations:] rules:

- (1) To declare as a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances;
- (2) To determine the pesticides which are highly toxic to man; to designate pesticides as restricted use or [general] non-restricted use; and to establish a system of control over the distribution and use of certain pesticides and devices purchased by the consuming public;
- (3) To determine standards of coloring for pesticides, and to subject pesticides to the requirements of section 149A-16;
- (4) To establish procedures, conditions, and fees for the issuance of licenses for sale of restricted use pesticides;
- (5) To establish fees for the licensing of pesticides within the limitations of section 149A-13(b);
- (6) To establish procedures for the licensing of pesticides;
- (7) To establish procedures for the registration of pesticides under provisions of section 24(c), FIFRA[, as amended];
- (8) To establish procedures for the disposal of pesticides; and
- (9) To establish procedures to issue experimental use permits under provisions of section 5 of FIFRA[, as amended].

(b) The board [shall], after public hearing, shall make and adopt appropriate rules [and regulations] for carrying out this chapter, including rules [and regulations] providing for the collection and examination of samples of pesticides or devices.

(c) The board [shall], after public hearing, shall adopt [such regulations,] rules applicable to and in conformity with the primary standards established by this chapter[,] or as prescribed by FIFRA[, as amended,] with respect to pesticides.”

SECTION 12. Section 149A-20, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The [chairman] chairperson or the [chairman’s] chairperson’s authorized agent may issue and enforce a written or printed “stop-sale” or

## ACT 310

“removal from sale” order to withhold from sale any pesticide or device that is distributed, sold, offered for sale, transported, or delivered for transportation in violation of this chapter.”

SECTION 13. Section 149A-22, Hawaii Revised Statutes, is amended to read as follows:

“§149A-22 Authority. The board shall have authority to adopt [such rules and regulations] rules, as necessary, consistent with section 5(f) and section 24(c) of [the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended,] FIFRA, to develop and implement state programs for registration of pesticides for special local needs and issuance of experimental use permits.”

SECTION 14. Section 149A-23, Hawaii Revised Statutes, is amended to read as follows:

“§149A-23 Cooperation. The department may cooperate [with, and] or enter into agreements with[,] any other agency of the State [or the federal government,] or any agency [thereof] of the federal government for the purpose of carrying out this chapter and securing uniformity of [regulations.] rules.”

SECTION 15. Section 149A-31, Hawaii Revised Statutes, is amended to read as follows:

“§149A-31 Prohibited acts. No person shall:

- (1) Use any [licensed] pesticide in a manner inconsistent with its label[.], except that it shall not be unlawful to:
  - (A) Apply a pesticide at any dosage, concentration, or frequency less than that specified on the label or labeling; provided that the efficacy of the pesticide is maintained and further provided that, when a pesticide is applied by a commercial applicator, the deviation from the label recommendations must be with the consent of the purchaser of the pesticide application services;
  - (B) Apply a pesticide against any target pest not specified in the labeling if the application is to a crop, animal, or site specified on the label or labeling; provided that the label or labeling does not specifically prohibit the use on pests other than those listed on the label or labeling;
  - (C) Employ any method of application not prohibited by the labeling;
  - (D) Mix a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the label or labeling; or
  - (E) Use in a manner determined by rule not to be an unlawful act;
- (2) Use, store, transport, or discard any pesticide or [the containers of such] pesticide container in any manner which would have unreasonable adverse [effect] effects on the environment;
- (3) Use or apply restricted use pesticides unless the person is a certified pesticide applicator or under the direct supervision of a certified pesticide applicator with a valid certificate issued pursuant to [regulations] rules adopted under section 149A-33(1);
- (4) Use or apply pesticides in any manner that has been suspended, canceled, or restricted pursuant to section 149A-32.5; or
- (5) Falsify any record or report required to be made or maintained by [regulations] rules adopted pursuant to this chapter.”



SECTION 16. Section 149A-32.5, Hawaii Revised Statutes, is amended to read as follows:

“**[§149A-32.5]** **Cancellation or suspension of pesticide uses.** Notwithstanding any law, rule, [regulation,] or executive order to the contrary, the chairperson of the board of agriculture, in consultation with the advisory committee on pesticides and also with the approval of the director of health, shall suspend, cancel, or restrict the use of certain pesticides or specific uses of certain pesticides when [such] the usage is [deemed] determined to have unreasonable adverse effects on the environment. In addition to other circumstances which may require a determination as to whether unreasonable adverse effects exist, a determination shall be made:

- (1) When residues of the pesticides are detected in drinking water; or
- (2) When a use under special local needs registration involves a pesticide for which any use has been suspended or canceled by the [United States Environmental Protection Agency.] EPA.”

SECTION 17. Section 149A-33, Hawaii Revised Statutes, is amended to read as follows:

“**§149A-33 Rules [and regulations].** The department shall have the authority to carry out and effectuate the purpose of this chapter by rules [and regulations], including but not limited to the following:

- (1) To establish fees, procedures, conditions, and standards to certify persons for the use of restricted use pesticides under section 4 of FIFRA[, as amended];
- (2) To establish limitations and conditions for the application of pesticides by aircraft, power rigs, mist blowers, and other equipment;
- (3) To establish, as necessary, specific standards and guidelines which specify those conditions which constitute unreasonable adverse [effect] effects on the environment;
- (4) To establish, as necessary, record keeping requirements for [restricted] pesticide use by [commercial] applicators; and
- (5) To establish, as necessary, procedures for the issuance of guidelines to specify those conditions that constitute use of a pesticide in a manner inconsistent with its label.”

SECTION 18. Section 149A-34, Hawaii Revised Statutes, is amended to read as follows:

“**§149A-34 Denial, suspension, or revocation of certificate.** The department may deny issuance of a certificate for reasonable cause. Any certificate issued pursuant to [regulations] rules adopted under section 149A-33(1) may be suspended or revoked by the department, after hearing, for violation of any condition of the certificate or of any law or [regulation] rule pertaining to the use of any restricted use pesticide. Any order made by the department for the suspension or revocation of a certificate shall be in writing and shall set forth the reasons for the suspension or revocation. The action of the department in suspending[,] or [in] revoking a certificate may be reviewed in the manner provided by chapter 91.”

SECTION 19. Section 149A-41, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Warning notice. Any person who violates this chapter or any rule [or regulation] issued [hereunder] under this section may upon the first

## ACT 311

violation be issued a written warning notice citing the specific violation and necessary corrective action.

(b) Civil penalties.

- (1) In general, any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this chapter may be assessed a civil penalty by the board of not more than \$5,000 for each offense.
- (2) Any private applicator or other person not included in paragraph (1) who violates any provision of this chapter subsequent to receiving a written warning from the department or following a citation for a prior violation may be assessed a civil penalty by the board of not more than \$1,000 for each offense.
- (3) No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on [such] the specific charge in the county of the residence of the person charged. In determining the amount of penalty, the board shall consider the appropriateness of [ such] the penalty to the size of the business of the person charged, the effect on the person's ability to continue business, and the gravity of the violation.
- (4) In case of inability to collect [such] the civil penalty or failure of any person to pay all[,] or such portion of [such] the civil penalty as the board may determine, the board shall refer the matter to the attorney general, who shall recover [such] the amount by action in the appropriate court."

SECTION 20. Section 149A-51, Hawaii Revised Statutes, is amended to read as follows:

"**§149A-51 Advisory committee.** There shall be an advisory committee on pesticides composed of but not limited to the [chairman,] chairperson, or the [chairman's] chairperson's designated representative, who shall head the committee and one representative each from the department of health, department of land and natural resources, University of Hawaii college of tropical agriculture and human resources, sugar industry, pineapple industry, Hawaii [farm bureau federation,] Farm Bureau Federation, pesticide industry, structural pest control industry, an environmental organization, a citizen group, and one at-large public member. Members of the advisory committee shall be appointed by the governor from a list of persons recommended by the respective agencies and industries in accordance with section 26-34. The committee shall advise and assist the department in developing or revising laws and rules to carry out and effectuate the purposes of this chapter and in advising the department in pesticide problems."

SECTION 21. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 22. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

## ACT 311

H.B. NO. 307

A Bill for an Act Relating to Collective Bargaining.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 89-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No elected or appointed official, member of any board or commission, representative of a public employer, including the administrative officer, director, or chief of a state or county department or agency, or any major division thereof, as well as [his] any first deputy, first assistant, and [any] other top-level managerial and administrative personnel, secretary to top-level managerial and administrative personnel, individual concerned with confidential matters affecting employee-employer relations, part time employee working less than twenty hours per week, temporary employee of three months duration or less, employee of the executive office of the governor, household employee at Washington Place, employee of the executive office of the mayor, staff of the legislative branch of the State, employee of the executive office of the lieutenant governor, inmate, kokua, patient, ward or student of a state institution, student help, any commissioned and enlisted personnel of the Hawaii national guard, or staff of the legislative branch of the city and county of Honolulu and counties of Hawaii, Maui, and Kauai, except employees of the clerks’ offices of said city and county and counties, shall be included in any appropriate bargaining unit or entitled to coverage under this chapter.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

## ACT 312

H.B. NO. 586

A Bill for an Act Relating to Aquaculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§304- **Algal mass culture facility, Snug Harbor, Oahu; revolving fund.** There is established a revolving fund for the algal mass culture facility, Snug Harbor, Oahu, operated by the Hawaii institute of geophysics, University of Hawaii, into which shall be deposited the receipts from the fees realized from the sale of algae produced as a by-product of research. The amount of algae sold shall not exceed two hundred pounds a week. Funds deposited into this account shall be expended for aquaculture research and services and supplies related thereto.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Rental Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 356-302, Hawaii Revised Statutes, is amended to read as follows:

**“§356-302 Definitions.** The following words or terms as used in this part shall have the following meanings unless a different meaning clearly appears from the context:

“Eligible project” means a rental housing project which:

- (1) Is financed by the authority pursuant to part II of chapter 356, or the authority determines will require rental assistance to make it financially feasible;
- (2) Is subject to a regulatory agreement with the authority;
- (3) Has not less than twenty per cent of the units in the project maintained for eligible tenants;
- (4) Has the remaining units, other than a unit reserved for a manager of the project, maintained for moderate income persons and families, as defined in section 356-206(b); and
- (5) Meets other qualifications as established by rules adopted by the authority.

Notwithstanding any provisions to the contrary, “eligible project” may also include a rental housing project which is financed by the authority pursuant to part I of chapter 356.

“Eligible tenant” means a family or individual of low or moderate income as determined by the Secretary of the United States Treasury Department in accordance with section 167(k)(3)(B) of the Internal Revenue Code of 1954, as amended.

“Owner” means the owner of an eligible project.

“Regulatory agreement” means an agreement between the authority and the owner relating to an eligible project which includes provisions relating to rents, charges, profits, return on owner’s equity, development costs, and methods of operation.

“Rental assistance contract” means an agreement between an owner and the authority providing for periodic rental assistance payments for units in an eligible project.”

SECTION 2. Section 356-303, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Earnings on the investment of the rental assistance revolving fund and amounts recovered by the authority pursuant to section 356-305(f) may be applied by the authority to payments under the rental assistance contracts[.] or to subsidize tenants’ rents in projects developed under part I of chapter 356.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

## A Bill for an Act Relating to Family Court.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 571-48, Hawaii Revised Statutes, is amended to read as follows:

**“§571-48 Decree, if formal<sup>1</sup> adjustment or diversion to a private or community agency or program has not been effected.** When a minor is found by the court to come within section 571-11, the court shall so decree and in its decree shall make a finding of the facts upon which the court exercises its jurisdiction over the minor. Upon the decree the court, by order duly entered, shall proceed as follows:

- (1) As to a child adjudicated under section 571-11(1):
  - (A) The court may place the child on probation:
    - (i) In the child’s own home; or
    - (ii) In the custody of a suitable person or facility elsewhere, upon conditions determined by the court.

Where conditions of probation include incarceration in a youth correctional facility, the incarceration shall be for a term not to exceed one year, after which time the person shall be allowed to reside in the community subject to additional conditions as may be imposed by the court.
  - (B) The court may vest legal custody of the child, after prior consultation with the agency or institution, in a Hawaii youth correctional facility, in a local public agency or institution, or in any private institution or agency authorized by the court to care for children; or place the child in a private home. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state’s department of social services or other equivalent department.
  - (C) The court may fine the child for a violation which would be theft in the third degree by shoplifting if committed by an adult. The court may require the child to perform public services in lieu of the fine.
- (2) As to a child adjudicated under section 571-11(2):
  - (A) The court may place the child under protective supervision, as hereinabove defined, in the child’s own home, or in the custody of a suitable person or agency elsewhere, upon conditions determined by the court.
  - (B) The court may vest legal custody of the child, after prior consultation with the agency or institution in a local governmental agency or institution licensed or approved by the State to care for children, with the exception of an institution<sup>1</sup> authorized by the court to care for children. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state’s department of social services or other equivalent department; provided that the child may not be committed to a public or private institution operated solely for the treatment of law violators.

- (3) An order vesting legal custody of a minor in an individual<sup>1</sup> agency, or institution under section 571-11(2) shall be for an indeterminate period but shall not remain in force or effect beyond three years from the date entered, except that the individual, institution, or agency may file with the court a petition for renewal of the order and the court may renew the order if it finds such renewal necessary to safeguard the welfare of the child or the public interest. The court, after notice to the parties, may conduct a hearing on the petition. Renewal may be periodic during minority, but no order shall have any force or effect beyond the period authorized by section 571-13. An agency granted legal custody shall be subject to prior approval of the court in any case in which the child is to reside without the territorial jurisdiction of the court and may be subject to prior approval in other cases. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the court.
- (4) Whenever the court commits a child to the care of the director of social services or vests legal custody of a child in an institution or agency it shall transmit with the order copies of the clinical reports, social study, and other information pertinent to the care and treatment of the child, and the institution or agency shall give to the court any information concerning the child that the court may at any time require. An institution or agency receiving a child under this paragraph shall inform the court whenever the status of the child is affected through temporary or permanent release, discharge, or transfer to other custody. An institution to which a child is committed under section 571-11(1) or (2) shall not transfer custody of the child to an institution for the correction of adult offenders, except as authorized in this chapter and under chapter 352.
- (5) The court may order, for any child within its jurisdiction, whatever care or treatment is authorized by law.
- (6) In placing a child under the guardianship or custody of an individual or of a private agency or private institution, the court shall give primary consideration to the welfare of the child.
- (7) In support of any order or decree under section 571-11(1) or (2), the court may require the parents or other persons having the custody of the child, or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this chapter and who are parties to the proceeding, to do or to omit doing any acts required or forbidden by law, when the judge deems this requirement necessary for the welfare of the child. The court may also make appropriate orders concerning the parents or other persons having custody of the child and who are parties to the proceeding. If such persons fail to comply with the requirement[,] or with the court order, the court may proceed against them for contempt of court.
- (8) In support of any order or decree for custody or support, the court may make an order of protection setting forth reasonable conditions of behavior to be observed for a specified time, binding upon both parents or either of them. This order may require either parent to stay away from the home or from the other parent or children, may permit the other to visit the

children at stated periods, or may require a parent to abstain from offensive conduct against the children or each other.

- (9) The court may dismiss the petition or otherwise terminate its jurisdiction at any time.
- (10) In any other case of which the court has jurisdiction, the court may make any order or judgment authorized by law.
- (11) The court may order any person adjudicated pursuant to section 571-11(1) to make restitution of money or services to any victim who suffers loss as a result of the child's action, or to render community service.
- (12) The court may order any person adjudicated pursuant to section 571-11(2) to participate in community service.
- (13) The court may order the parents of an adjudicated minor to make restitution of money or services to any victim, person, or party who has incurred a loss or damages as a result of the child's action."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 25, 1987.)

Note

- 1. So in original.

ACT 315

H.B. NO. 920

A Bill for an Act Relating to Family Court.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 586-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A petition for relief under this chapter may be made by:

- (1) [any] Any family or household<sup>1</sup> on his or her own behalf or on behalf of a family or household member who is a minor, or who is incapacitated as defined in section 560:5-101(2), or who is physically unable to go to the appropriate place to complete or file the petition[.]; or
- (2) Any state agency on behalf of a person who is a minor, or who is incapacitated as defined in section 560:5-101(2), or a person who is physically unable to go to the appropriate place to complete or file the petition on behalf of that person.”

SECTION 2. Section 586-4, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[~~§586-4~~]]]~~<sup>1</sup> **Temporary restraining order.** (a) Upon petition to a family court judge, a temporary restraining order may be granted without notice to restrain either or both parties from contacting, threatening, or physically abusing each other, notwithstanding that a complaint for annulment, divorce, or separation has not been filed. The order may be granted to any person who, at the time such order is granted, is a family or household

## ACT 315

member as defined in section 586-1[.] or who filed a petition on behalf of a family or household member.

(b) The family court judge may issue the ex parte temporary restraining order orally, but shall reduce the order to writing by the close of the next court day following the application. The order shall state that there is probable cause to believe that a recent past act or acts of abuse have occurred, or that threats of abuse make it probable that acts of abuse may be imminent. The order shall further state that the temporary restraining order is necessary for the purpose of preventing acts of abuse, or a recurrence of actual domestic abuse, and assuring a period of separation of the parties involved. The order shall describe in reasonable detail the act or acts sought to be restrained. Where necessary, the order may require either or both of the parties involved to leave the premises during the period of the order, and may also restrain the party or parties to whom it is directed from contacting, threatening, or physically abusing the applicant's family or household members. The order shall not only be binding upon the parties to the action, but also upon their officers, agents, servants, employees, attorneys, or any other persons in active concert or participation with them."

SECTION 3. Section 586-5, Hawaii Revised Statutes, is amended to read as follows:

**"§586-5 Period of order; hearing.** (a) A temporary restraining order granted pursuant to this chapter shall remain in effect at the discretion of the court, not to exceed thirty days[.] from the date the order is granted.

(b) On the earliest date that the business of the court will permit, but no later than fifteen days from the date the temporary restraining order<sup>1</sup> granted, the court shall, after giving due notice to all parties, hold a hearing on the application requiring cause to be shown why the order should not continue. In the event that service has not been effected, the court may set a new date for the hearing[.] provided that said date shall not exceed thirty days from the date the temporary restraining order was granted. All parties shall be present at the hearing and may be represented by counsel. [If after hearing all relevant evidence, the court finds that a further period of separation of the parties is necessary to prevent domestic abuse or a recurrence of abuse, the court may order that a protective order be issued for such further period as the court deems appropriate, not to exceed one hundred-eighty days from the date of its initial order.]

The protective order may include all orders stated in the temporary restraining order and may provide such further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation with regard to minor children of the parties and orders to either or both parties to participate in treatment or counseling services."

SECTION 4. Chapter 586, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**"§586- Protective order.** If after hearing all relevant evidence, the court finds that the respondent has failed to show cause why the order should not be continued and that a protective order is necessary to prevent domestic abuse or a recurrence of abuse, the court may order that a protective order be issued for such further period as the court deems appropriate, not to exceed one hundred-eighty days from the date the protective order is granted. However, if the court has ordered a party to participate in treatment or counseling services, the court may extend the term of the protective order



for an additional one hundred-eighty days to enforce the order for treatment or counseling.

The protective order may include all orders stated in the temporary restraining order and may provide such further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation with regard to minor children of the parties and orders to either or both parties to participate in treatment or counseling services. If the court finds that the party meets the requirements under section 334-59(a)(2), the court may further order that the party be taken to the nearest facility for emergency examination and treatment.”

SECTION 5. Section 586-6, Hawaii Revised Statutes, is amended to read as follows:

“[[§586-6]] Service of order. Any order issued under this chapter shall be personally served upon the respondent[.] unless the respondent was present at the hearing in which case the respondent may be served by regular mail.”

SECTION 6. Section<sup>1</sup> 586, Hawaii Revised Statutes, is amended to add a new section to read as follows:

“**§586- Effective date.** The temporary restraining order shall be effective as of the date of signing and filing. Protective orders orally stated by the court on the record shall be effective as of the date of the hearing until further order of the court; provided that all oral orders shall be reduced to writing within one week of the hearing date.”

SECTION 7. Section<sup>1</sup> 586, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

“**§586- Reports by the department of social services and housing.** In cases where there are allegations of domestic abuse involving a minor family or household member, the employee or appropriate nonjudicial agency designated by the family court to assist the petitioner shall report the matter to the department of social services and housing, as required under chapter 350, and shall further notify the department of the granting of the temporary restraining order and of the hearing date. The department of social services and housing shall provide the family court with an oral or written report of the investigation’s progress on or before the hearing date.”

SECTION 2<sup>1</sup> Statutory material to be repealed is bracketed. New statutory material is underscored<sup>2</sup>.

SECTION 3.<sup>1</sup> This Act shall take effect upon approval.

(Approved June 26, 1987.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 316

H.B. NO. 921

A Bill for an Act Relating to Family Court.

*Be It Enacted by the Legislature of the State of Hawaii:*

## ACT 317

SECTION 1. Section 571-2, Hawaii Revised Statutes, is amended by amending the definition of "status offender" to read as follows:

"Status offender" means any child coming within the family court's jurisdiction under section [571-11(2)(D), (E), or (F).] 571-11(2)(B), (C), or (D). Such child is distinguished from (A) a law violator under section 571-11(1) who comes into the family court upon allegations such person has committed an act which would constitute a crime if committed by an adult, and (B) a neglected or abused child under [section 571-11(2)(A), (B), or (C).] sections 571-11(2)(A) and 571-11(9) and chapter 587."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon approval.

(Approved June 26, 1987.)

## ACT 317

H.B. NO. 999

A Bill for an Act Relating to Fraudulent Use of Plates.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 249-11, Hawaii Revised Statutes, is amended to read as follows:

"**§249-11 Fraudulent use of plates, tags or emblems and other misdemeanors; penalties.** Any person who attaches to and uses on any vehicle plates, tags, or emblems not furnished in accordance with sections 249-1 to 249-13 or 286-53, or who fraudulently uses such number plates, tags, or emblems upon any vehicle other than the one for which the number plates, tags, or emblems were issued, or who molests or disturbs any vehicle which has been seized pursuant to sections 249-1 to 249-13, or any person who knowingly uses a motor vehicle, the tax upon which is delinquent, upon public highways of this State, or any director of finance who issues a certificate of registration or number plates, tags, or emblems to any person who has not paid the tax required by sections 249-1 to 249-13, or any person who violates any of the provisions of such sections, shall be fined not more than \$500."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

## ACT 318

H.B. NO. 1174

A Bill for an Act Relating to Driver License Renewal by Mail.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-107, Hawaii Revised Statutes, is amended as follows:

1. Subsection (g) is amended to read:

“(g) No driver’s license shall be renewable by mail for more than two consecutive renewals whether the license expires, under section 286-106, on the fourth birthday after issuance or on the second birthday after issuance[.]; provided that this subsection shall not apply to a resident military person or that person’s immediate family if the resident military person resides outside the State on official military orders.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

## ACT 319

H.B. NO. 1176

A Bill for an Act Relating to Dealers in New Motor Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-53, Hawaii Revised Statutes, is amended as follows:

1. Subsection (a) is amended to read:

“(a) A manufacturer of or dealer in new motor vehicles having an established place of business, owning any such new vehicles and operating them upon the public highways [exclusively for the purposes of the manufacturer’s or dealer’s business], in lieu of registering each such new vehicle, may make application upon an official [blank] form provided for that purpose to the director of finance for a [general distinguishing] permanent number [or symbol.] plate.”

2. Subsection (b) is amended to read:

“(b) [Upon receipt of the application, the director of finance shall issue to the applicant a certificate of registration, containing the latter’s name and business address, and the general distinguishing number or symbol assigned to the applicant in such form and containing such further information as the director of finance may determine, and every new vehicle owned or controlled by the manufacturer or dealer, and permitted to be registered under a general distinguishing number, while being operated for the purposes of the manufacturer’s or dealer’s business only, shall be regarded as registered thereunder until the vehicle is sold and the sale has been recorded by the director of finance.] Every new vehicle owned or controlled by the manufacturer or dealer, and permitted to be registered under a permanent number plate shall be regarded as registered thereunder until the vehicle is sold and the sale has been recorded by the director of finance.”

3. Subsection (c) is amended to read:

“(c) The director of finance shall [also], upon receipt of the application, or thereafter, furnish to the manufacturer or dealer:

(1) Permanent number plates which shall be attached to new motor vehicles which are used by the applicant only for demonstration of the new motor vehicles to customers upon the public highways if requested by the applicant. The price of each permanent number plate shall be established by the director of finance under chapter 91. Each permanent number plate shall display

upon it the [registration] number which is assigned to the applicant and a different letter or [symbol] number to differentiate it from other plates furnished to the applicant. Permanent number plates which are detached from a new motor vehicle which has been sold may be used on another new motor vehicle; and

- (2) Temporary motor vehicle plates, if the applicant is a new motor vehicle dealer, which plates shall be blank except for an area on the lower right corner which shall be utilized for validation of the temporary plates. The validation shall not be reproducible by any person other than the director of finance, or director of finance of another county if an agreement is made to utilize a uniform validation, shall signify the official status of the temporary number plate, and be designed to be [visible] visible from a distance of two feet.

The directors of finance of any two or more counties may agree to utilize a uniform designation to be placed upon the temporary number plate. The director of finance shall establish the material used for the temporary number plate and a charge by rule under chapter 91 for each temporary number plate."

4. Subsection (i) is amended to read:

"(i) For the purposes of this section:

- (1) "New motor vehicles" means motor vehicles of the current model year, immediate past model year, or the next model year which have not been sold or registered by the manufacturer or dealer;
- [(1)] (2) "New motor vehicle dealer" means a dealer licensed under chapter 437 to engage in the business of selling at wholesale or retail or both, new motor vehicles or used motor vehicles;
- [(2)] (3) "Permanent number plate" means a number plate furnished to a manufacturer or dealer under subsection (c)(1) for a motor vehicle which is similar to the number plate issued under section 249-7 and which allows the motor vehicle to be operated on the public highways; and
- [(3)] (4) "Temporary number plate" means the number plate furnished to a new motor vehicle dealer under subsection (c)(2)."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

**ACT 320**

H.B. NO. 1246

A Bill for an Act Relating to Unfair Insurance Practices and Frauds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431-643, Hawaii Revised Statutes, is amended to read as follows:

**"§431-643 Unfair methods of competition and unfair or deceptive acts or practices defined. (a)** The following are defined as unfair methods of

competition and unfair or deceptive acts or practices in the business of insurance:

- (1) Misrepresentations and false advertising of insurance policies. Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:
  - (A) Misrepresents the benefits, advantages, conditions, or terms of any insurance policy; or
  - (B) Misrepresents the dividends or share of the surplus to be received on any insurance policy; or
  - (C) Makes any false or misleading statement as to the dividends or share of surplus previously paid on any insurance policy; or
  - (D) Is misleading or is a misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates; or
  - (E) Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof; or
  - (F) Is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy; or
  - (G) Is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; or
  - (H) Misrepresents any insurance policy as being shares of stock; or
  - (I) Publishes or advertises the assets of any insurer without publishing or advertising with equal conspicuousness the liabilities of the insurer, both as shown by its last annual statement; or
  - (J) Publishes or advertises the capital of any insurer without stating specifically the amount of paid-in and subscribed capital.
- (2) False information and advertising generally. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.
- (3) Defamation. Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.
- (4) Boycott, coercion, and intimidation:
  - (A) Entering into any agreement to commit, or by any action committing, any act of boycott, coercion, or intimidation

- resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance; or
- (B) Entering into any agreement on the condition, agreement, or understanding that a policy will not be issued or renewed unless the prospective insured contracts for another class or an additional policy of the same class of insurance with the same insurer.
- (5) False financial statements:
- (A) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or knowingly causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of a material fact as to the financial condition of an insurer; or
  - (B) Knowingly making any false entry of a material fact in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom the insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, knowingly omitting to make a true entry of any material fact pertaining to the business of the insurer in any book, report, or statement of the insurer.
- (6) Stock operations and advisory board contracts. Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.
- (7) Unfair discrimination:
- (A) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contract; or
  - (B) Making or permitting any unfair discrimination in favor of particular individuals or persons, or between insureds or subjects of insurance having substantially like insuring, risk, and exposure factors, or expense elements, in the term or conditions of any insurance contract, or in the rate or amount of premium charge therefor, or in the benefits payable or in any other rights or privilege accruing thereunder; or
  - (C) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

- (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination, or
  - (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate; or
- (D) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless:
- (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination, or
  - (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate; or
- (E) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because of the sex or marital status of the individual; however, nothing in this subparagraph shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits; or
- (F) To terminate, or to modify coverage or to refuse to issue or refuse to renew any property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired; provided that this subparagraph shall not apply to accident and health insurance sold by a casualty insurer; provided further that this subparagraph shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance or renewal of any insurance policy or contract.
- (8) Rebates. Except as otherwise expressly provided by law:
- (A) Knowingly permitting or offering to make or making any contract of insurance, or agreement as to the contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to the insurance, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or
  - (B) Giving, or selling, or purchasing, or offering to give, sell, or purchase as inducement to the insurance or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.
- (9) Nothing in paragraph (7) or paragraph (8) [of this section] shall be construed as including within the definition of discrimination or rebates any of the following practices:

- (A) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any bonus or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the insurer and its policyholders;
  - (B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;
  - (C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for the policy year;
  - (D) In the case of any contract of insurance, the distribution of savings, earnings, or surplus equitably among a class of policyholders, all in accordance with this chapter.
- (10) Unfair claim settlement practices. Committing or performing with such frequency as to indicate a general business practice any of the following:
- (A) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
  - (B) Failing to respond with reasonable promptness, in no case more than fifteen working days, to communications, whether received from the insurer's policyholder or any other person, or insurer of the other person, who is involved in an accident in which the insurer's policyholder is also involved, with respect to claims arising under its policies;
  - (C) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
  - (D) Refusing to pay claims without conducting a reasonable investigation based upon all available information;
  - (E) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
  - (F) Failing to offer payment within thirty calendar days of affirmation of liability, if the amount of the claim has been determined and is not in dispute;
  - (G) Failing to provide the insured, or when applicable the insured's beneficiary, with a reasonable written explanation for any delay, on every claim remaining unresolved for thirty calendar days from the date it was reported;
- [(F)] (H) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;
- [(G)] (I) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by the insureds;



- [(H)] (J) Attempting to settle a claim for less than the amount to which a reasonable person would have believed the person was entitled by reference to written or printed advertising material accompanying or made part of an application;
- [(I)] (K) Attempting to settle claims on the basis of an application which was altered without notice, or knowledge or consent of the insured;
- [(J)] (L) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;
- [(K)] (M) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
- [(L)] (N) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;
- [(M)] (O) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;
- [(N)] (P) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement[.]; and
- (Q) Indicating to the insured on any payment draft, check, or in any accompanying letter that the payment is "final" or is "a release" of any claim if additional benefits relating to the claim are probable under coverages afforded by the policy; unless the policy limit has been paid or there is a bona fide dispute over either the coverage or the amount payable under the policy.

The commissioner shall by certified mail notify the insurer's agent, as designated pursuant to section 431-102, of each complaint filed with the commissioner under this section.

Three or more written complaints received by the commissioner within any twelve-month period charging separate violations of this section shall constitute a rebuttable presumption of a general business practice.

Evidence as to numbers and types of complaints to the insurance commissioner against an insurer, and the insurance commissioner's complaint experience with other insurers writing similar lines of insurance, shall be admissible in an administrative or judicial proceeding brought under this section; provided no insurer shall be deemed in violation of this section solely by reason of the numbers and types of such complaints except as provided in the immediately preceding paragraph and the presumption is not rebutted.

If it is found, after notice and an opportunity to be heard, that an insurer has violated this section, each instance of non-compliance may be treated as a separate violation of this section for the purposes of section 431-17.

- (11) Failure to maintain complaint handling procedures. Failure of any insurer to maintain a complete record of all the complaints which it has received since the date of its last examination under section 431-54. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. For purposes of this paragraph, "complaint" shall mean any written communication primarily expressing a grievance.
- (12) Misrepresentation in insurance applications. Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, or individual.

(b) If any insurance company fails to pay a judgment for a violation of this section within thirty calendar days without reasonable cause, interest of one and one-half per cent a month shall be charged on all amounts delinquent."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

A Bill for an Act Relating to the Uniform Premarital Agreement Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
UNIFORM PREMARITAL AGREEMENT ACT**

§ -1 **Definitions.** As used in this chapter, unless the context otherwise requires:

“Premarital agreement” means an agreement between prospective spouses made in contemplation of marriage and to be effect<sup>1</sup> upon marriage.

“Property” means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

§ -2 **Formalities.** A premarital agreement must be in writing and signed by both parties. It is enforceable without consideration.

§ -3 **Content.** (a) Parties to a premarital agreement may contract with respect to:

- (1) The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;
- (2) The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;
- (3) The disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event;
- (4) The modification or elimination of spousal support;
- (5) The making of a will, trust, or other arrangement to carry out the provisions of the agreement;
- (6) The ownership rights in and disposition of the death benefit from a life insurance policy;
- (7) The choice of law governing the construction of the agreement; and
- (8) Any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

(b) The right of a child to support may not be adversely affected by a premarital agreement.

**§ -4 Effect of marriage.** A premarital agreement becomes effective upon marriage of the parties to each other.

**§ -5 Amendment; revocation.** After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation is enforceable without consideration.

**§ -6 Enforcement.** (a) A premarital agreement is enforceable and shall be binding in any action unless the party against whom enforcement is sought proves that:

- (1) That party did not execute the agreement voluntarily; or
- (2) The agreement was unconscionable when it was executed and, before execution of the agreement, that party:
  - (A) Was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;
  - (B) Did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and
  - (C) Did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(b) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid eligibility for public assistance.

(c) An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

**§ -7 Enforcement; void marriage.** If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

## ACT 322

§ -8 **Limitation of actions.** Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

§ -9 **Application and construction.** This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

§ -10 **Prior agreements.** All written agreements entered into prior to the enactment of this Act between prospective spouses for the purpose of affecting any of the provisions of this Act shall be valid and enforceable if otherwise valid as contracts.

§ -11 **Short title.** This chapter may be cited as the Uniform Premarital Agreement Act.”

SECTION 2. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. This Act shall take effect on July 1, 1987, and applies to any premarital agreement existing or executed on or after that date.

(Approved June 26, 1987.)

### Note

1. So in original.

## ACT 322

H.B. NO. 1252

A Bill for an Act Relating to Criminal Records.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 831,<sup>1</sup> Hawaii Revised Statutes, is amended as follows:

“§831-3.2 **Expungement orders.** (a) The attorney general, or his duly authorized representative within the department of the attorney general, upon written application from a person arrested for, or charged with but not convicted of a crime, shall issue an expungement order annulling, canceling, and rescinding the record of arrest; provided that an expungement order shall not issue (1) in the case of an arrest for a felony or misdemeanor where conviction has not been obtained because of bail forfeiture; (2) for a period of five years after arrest or citation in the case of a petty misdemeanor or violation where conviction has not been obtained because of a bail forfeiture; [and] (3) in the case of an arrest of any person for any offense where conviction has not been obtained because he has rendered prosecution impossible by absenting himself from the jurisdiction[.]; and<sup>1</sup> (4) in the case of a person acquitted by reason of a mental or physical defect under chapter 704.

Any person entitled to an expungement order hereunder may be<sup>1</sup> written application also request return of all fingerprints or photographs

taken in connection with his arrest. The attorney general or his duly authorized representative within the department of the attorney general, within 120 days after receipt of such written application, shall, when so requested, deliver, or cause to be delivered, all such fingerprints or photographs of such person, unless such person has a prior record of conviction or is a fugitive from justice, in which case the photographs or fingerprints may be retained by the agencies holding such records.

(b) Upon the issuance of the expungement order, the person applying for the order shall be treated as not having been arrested in all respects not otherwise provided for in this section.

(c) Upon the issuance of the expungement order, all arrest records pertaining to the arrest which are in the custody or control of any law enforcement agency of the state or any county government, and which are capable of being forwarded to the attorney general without affecting other records not pertaining to the arrest, shall be so forwarded for placement of the arrest records in a confidential file, [or, if the records are on magnetic tape or in a computer memory bank, shall be erased.]

(d) Records filed under subsection (c) shall not be divulged except upon inquiry by:

- (1) A court of law or an agency thereof which is preparing a presentence investigation for the court; [or]
- (2) An agency of the federal or state government which is considering the subject person for a position immediately and directly affecting the national or state security[.]; or
- (3) A law enforcement agency acting within the scope of their duties.

Response to any other inquiry shall not be different from responses made about persons who have no arrest records.

(e) The attorney general or his duly authorized representative within the department of the attorney general shall issue to the person for whom an expungement order has been entered, a certificate stating that the order has been issued and that its effect is to annul the record of a specific arrest. The certificate shall authorize the person to state, in response to any question or inquiry, whether or not under oath, that he has no record regarding the specific arrest. Such a statement shall not make the person subject to any action for perjury, civil suit, discharge from employment, or any other adverse action.

(f) The meaning of the following terms as used in this section shall be as indicated:

- (1) "Conviction" means a final determination of guilt whether by plea of the accused in open court, by verdict of the jury or by decision of the court.
- (2) "Arrest record" means the [document, magnetic tape or computer memory bank, produced under authority of law, which contains the data or legal proceedings against a person beginning with his arrest for the alleged commission of a crime and ending with final disposition of the charges against the person by non-conviction.] photographic and fingerprint cards relating to the arrest.

(g) The attorney general shall adopt rules pursuant to chapter 91 necessary for the purpose of this section.

(h) Nothing in this section shall affect the compilation of crime statistics or information stored or disseminated as provided in chapter 846."

SECTION 2. Statutory material to be repealed is bracketed. New, statutory material is underscored.

## ACT 323

SECTION 3. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

### Note

1. So in original.

## ACT 323

H.B. NO. 1331

A Bill for an Act Relating to the Child Support Enforcement Agency.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 576D-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The agency shall collect and disburse child support payments when a court order requires the collection and disbursement. Notwithstanding any other law to the contrary, the agency shall maintain a special interest bearing account for child support payments. Moneys collected by the agency for child support payments shall not be deposited into the state treasury, but shall be deposited into this account. Moneys to be disbursed by the agency for child support payments shall be disbursed from this account and the interest realized from the account shall be expended solely for purposes of administration of the child support program.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

## ACT 324

H.B. NO. 1519

A Bill for an Act Relating to Vessel Registration Fees and Charges.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 267, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§267- Future fee and charge increases or decreases. Notwithstanding section 267-12, all future fee and charge increases or decreases for vessels required to be registered and numbered pursuant to section 267-11 or for vessels owned by or operated under the custody of a boat manufacturer or boat dealer after December 31, 1987, shall be established by rules adopted by the department pursuant to chapter 91. Fees and charges established pursuant to this section shall supersede the fees and charges set forth in section 267-12.”

SECTION 2. New statutory material is underscored<sup>1</sup>.

SECTION 3. This Act shall take effect on January 1, 1988 and shall be repealed on January 1, 1993.

(Approved June 26, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## A Bill for an Act Relating to Environmental Impact Statements.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 343-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as otherwise provided, an environmental assessment shall be required for actions which:

- (1) Propose the use of state or county lands or the use of state or county funds, other than funds to be used for feasibility or planning studies for possible future programs or projects which the agency has not approved, adopted, or funded, or funds to be used for the acquisition of unimproved real property; provided that the agency shall consider environmental factors and available alternatives in its feasibility or planning studies.
- (2) Propose any use within any land classified as conservation district by the state land use commission under chapter 205.
- (3) Propose any use within the shoreline area as defined in section [205-31.] 205A-41.
- (4) Propose any use within any historic site as designated in the National Register or Hawaii Register as provided for in the Historic Preservation Act of 1966, Public Law 89-665, or chapter 6E.
- (5) Propose any use within the Waikiki-Diamond Head area of Oahu, the boundaries of which are delineated on the development plan for the Kalia, Waikiki, and Diamond Head areas (map designated as portion of 1967 city and county of Honolulu General Plan Development Plan Waikiki-Diamond Head Section A).
- (6) Propose any amendments to existing county general plans where such amendment would result in designations other than agriculture, conservation, or preservation, except actions proposing any new county general plan or amendments to any existing county general plan initiated by a county.
- (7) Propose the construction of new, or the expansion or modification of existing helicopter facilities within the state which by way of their activities may affect any land classified as conservation district by the state land use commission under chapter 205; the shoreline area as defined in section 205A-41; or, any historic site as designated in the National Register or Hawaii Register as provided for in the Historic Preservation Act of 1966, Public Law 89-665, or chapter 6E; or, until the statewide historic places inventory is completed, any historic site found by a field reconnaissance of the area affected by the helicopter facility and which is under consideration for placement on the National Register or the Hawaii Register of Historic Places.”

SECTION 2. Section 343-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Helicopter facility” means any area of land or water which is used, or intended for use for the landing or takeoff of helicopters; and any appurtenant areas which are used, or intended for use for helicopter related activities or rights-of-way.”

## ACT 326

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

## ACT 326

H.B. NO. 1688

A Bill for an Act Relating to Uniform Aeronautics Act (Modified).

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 263-5, Hawaii Revised Statutes, is amended to read as follows:

“**§263-5 Damage on land.** The owner of every aircraft which is operated over the lands or waters of the State is [absolutely] presumed liable, except the owner of every aircraft operated for commercial use is absolutely liable, for injuries to persons or property on the land or water beneath caused by the ascent, descent, or flight of the aircraft, or the dropping or falling of any object therefrom, whether the owner was negligent or not, unless the injury is caused in whole or in part by the negligence of the person injured, or of the owner or bailee of the property injured. If the aircraft is leased at the time of the injury to person or property, both owner and lessee shall be liable, and they may be sued jointly, or either or both of them may be sued separately. An aeronaut who is not the owner or lessee shall be liable only for the consequences of the aeronaut's own negligence. The injured person, or owner or bailee of injured property, shall have a lien on the aircraft causing the injury to the extent of the damage caused by the aircraft or objects falling from it.”

SECTION 2. Section 263-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Commercial use” includes the carriage in air commerce of persons or property for compensation or hire, and the lease or rental of any aircraft.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

## ACT 327

H.B. NO. 1710

A Bill for an Act Relating to Small Estates.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 551-21, Hawaii Revised Statutes, is amended to read as follows:

“**§551-21 Small estates; clerk of the<sup>1</sup> court to act when.** Whenever so requested as provided in section 560:5-404, the court may appoint the clerk of the court of that circuit as guardian of the property of the protected person whose estate is of a value of less than [~~\$3,000~~] \$8,000 who shall serve in such



capacity, with the full powers of and under like obligations as other guardians appointed under this chapter and chapter 560, except that [he] the clerk shall not be required to give any bond; nor shall the clerk be entitled to any commission or compensation except for expenses necessarily and actually incurred, nor shall the clerk or the protected person or the estate of the protected person be liable for any court costs arising out of the guardianship, except the actual cost of any advertising found necessary. The right of the clerk to act as the guardian of the property shall not be affected by reason of any increase of the estate to an amount in excess of [~~\$3,000~~] \$8,000 as the result of any accumulations of income accruing from the original principal of the estate or by the increase in value of the principal; provided, that if the estate reaches in value the sum of [~~\$5,000~~] \$13,000 a guardian of the property shall then be appointed under the preceding sections of this chapter or the court may, in its discretion, allow the guardian appointed under this section to continue to act even though the total assets exceed [~~\$5,000~~] \$13,000."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

Note

1. So in original.

ACT 328

H.B. NO. 1795

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 356-29, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The bonds may be sold [at not less than par] at the discretion of the authority, either by public sale held after notice published once at least five days prior to the sale in a newspaper having a general circulation in the State[; provided that the bonds may be sold at not less than par to the federal government at private sale without any public advertisement.] or by negotiated sale without any public advertisement, in each case for a price as may be determined by the authority to be in the best interest of the State."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

ACT 329

H.B. NO. 1796

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

## ACT 329

SECTION 1. Section 359G-1, Hawaii Revised Statutes, is amended to read as follows:

**“§359G-1 Purpose.** The legislature of the State of Hawaii has determined that there exists in the State a critical shortage of housing units [for] which are affordable to lower income residents. [Various studies have indicated the need for from between 40,000 to 50,000 units at the present time. These studies show that the forces of population increase and obsolescence will combine to create a need for over 250,000 units by 1985. Since 1961, the economy has been producing an average of less than 10,000 units annually.] The population increase, the obsolescence of existing housing and the rate at which housing units are presently being built will combine to intensify the present shortage. The legislature has further determined and hereby determines that shortage of housing, or inadequate housing, for persons of whatever level of income has an effect upon the availability and quality of housing for persons of other levels of income; that a shortage of housing leads to impairment of existing housing through use of such existing housing for occupancy in excess of that for which it is designed; and that a shortage of housing contributes to the occurrence of slums, slum conditions and unsanitary and unsafe housing and to the recurrence of slums, slum conditions and unsanitary and unsafe housing in areas in which slums, slum conditions and unsanitary and unsafe housing have previously been eliminated.

The legislature has also determined that decent shelter and the responsibility of home ownership contributes to the pride and dignity of man and makes him a greater asset to the community and that the lack of decent shelter and the responsibility of home ownership contributes to harmful frustration in our community. The home is the basic source of shelter and security in society, the center of our society which provides the basis for the development of our future citizens. Frustration in the inability to obtain the basic necessity of decent shelter[, in the satisfaction of the basic drive in man] and to provide a decent home for [his] one's family, provokes an unrest in our community that is harmful to the overall fiber of our society.

Studies have pointed out that the causes for the high cost of housing are multiple. They include the cost and availability of land, the cost of development, the cost and availability of financing, the cost added by government regulation, the cost and availability of labor and materials, and the inflationary state of the economy that makes high cost housing more profitable to produce and more attractive to “risk” capital. In the most elemental way the housing shortage is caused by conflicting priorities in our pluralistic society. Additionally, the legislature is aware that the housing market is a total market and that neglecting the interests of renters or higher income potential homeowners would not be proper.

When conflicting priorities, otherwise wholesome in a great state, combine to frustrate one of the basic needs of that state so as to endanger its general health and welfare, the elected representatives of the people of such state have the obligation to provide to the best of their ability the means whereby these priorities can be resolved.

The legislature of the State has determined that the problem of providing [reasonable] reasonably priced housing in Hawaii is so complex that existing institutions cannot solve it without a comprehensive overview and direction. The legislature has determined that the problem must be solved for the general well-being of the State and that the legislature has the duty to provide the overview and the direction.”

SECTION 2. Section 359G-1.1, Hawaii Revised Statutes, is amended to read as follows:<sup>1</sup>

“Authority” means the Hawaii housing authority created under chapter 356.

“Develop” or “development” means the planning, financing, acquisition of real and personal property, demolition of existing structures, clearance of real property, construction, reconstruction, alteration, or repairing of approaches, streets, sidewalks, utilities, and services, or other site improvements, or construction, reconstruction, repair, remodeling, extension, equipment, or furnishing of buildings or other structures, or any combination of the foregoing, of any housing project. It also includes any and all undertakings necessary therefor, and the acquisition of any housing, in whole or in part.

“Dwelling”, “dwelling unit”, or “unit” means any structure or room, for sale, lease, or rent, which provides shelter.

[(1)] “Eligible bidder” means a person, partnership, firm, or corporation determined by the authority:

- [(A)] (1) To be qualified by experience and financial responsibility to construct housing of the type proposed to be contracted; and
- [(B)] (2) To have submitted the lowest acceptable bid; and
- (C) To form a corporation to comply with the general corporation laws to receive a lease of lands].

[(2)] “Eligible developer” means any person, partnership, cooperative, firm, nonprofit or profit corporation, or public agency determined by the authority:

- [(A)] (1) To be qualified by experience and financial responsibility and support to construct housing of the type described and of the magnitude encompassed by the given project;
- [(B)] (2) To have submitted plans for a project adequately meeting the objectives of this chapter, the maintenance of aesthetic values in the locale of the project, and the requirements of all applicable environmental statutes, and rules;
- [(C) To be fully capable, on the basis of experience and reputation, to complete all sales of the project in a nondiscriminatory fashion and without encountering complaints under chapters 342, 378, 396, 515, or suits under any applicable state or federal civil or human rights statute, if applicable;] and
- [(D)] (3) To meet all other requisites the authority deems to be just and reasonable, and all requirements stipulated in this chapter.

“Eligible developer” includes limited-equity housing cooperatives as defined in section 421 G-1(2) which provide housing for persons and families of low or moderate income.

“Housing” or “housing project” includes all real and personal property, buildings and improvements, commercial space, lands for farming and gardening, community facilities acquired or constructed or to be acquired or constructed, and all tangible or intangible assets held or used in connection with the housing project.

[(3)] “Land” or “property” includes vacant land or land with site improvements whether partially or entirely finished in accordance with governmental subdivision standards, or with complete dwellings.

[(4)] “Mortgage holder” includes the United States Department of Housing and Urban Development, Federal Housing Administration, the United States Department of Agriculture, Farmers Home Administration,

**ACT 329**

or any other federal or state agency engaged in housing activity, Administrator of Veterans Affairs, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, private mortgage lender, private mortgage insurer, and their successors, grantees, and assigns.

[(5)] "Mortgage lender" means any bank or trust company, savings bank, national banking association, savings and loan association maintaining an office in the State, any insurance company authorized to transact business in the State, or any mortgagee approved by the Federal Housing Administration and maintaining an office in the State.

[(6)] "Purchaser's equity" means the difference between the original cost of the dwelling unit to the purchaser, and the principal amount of any mortgages, liens, or notes outstanding.

[(7)] "Qualified resident" means a person who:

- [(A)] (1) Is a citizen of the United States or a resident alien;
- [(B)] (2) Is at least eighteen years of age;
- [(C)] (3) Is a bona fide resident of the State and has a bona fide intent to reside in the dwelling unit purchased or rented under this chapter;
- [(D)] (4) In the case of purchase of a dwelling unit in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the purchase; and
- [(E)] (5) Is not found by the authority to be within one of the following classes:
  - [(i)] (A) A person who oneself or whose husband or wife or both (when husband and wife are living together) owns or own in fee simple or leasehold any lands suitable for dwelling purposes; or
  - [(ii)] (B) A person who oneself or whose husband or wife (when husband and wife are living together) has pending another unrefused application to purchase a dwelling unit under this chapter from the authority.

[(8)] "Short term project notes" means evidences of indebtedness issued by the State for specified housing projects and secured by such projects the terms of which call for complete repayment by the State of the face amount in not less than two nor more than ten years."

SECTION 3. Section 359G-3.3, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 359G-4 is amended by amending subsection (a) to read as follows:<sup>1</sup>

"(a) The authority may develop fee simple or leasehold property, construct dwelling units thereon, including condominiums and planned units, and sell, lease, or rent or cause to be leased or rented, at the lowest possible price to qualified residents of the State, [in partnership with a qualified partner] with an eligible developer or in its own behalf, either:

- (1) Fully completed dwelling units with the appropriate interest in the land on which the dwelling unit is located; or
- (2) Units which are substantially complete and habitable with the appropriate interest in the land on which the dwelling unit is located; or
- (3) The land with site improvements (other than the dwelling unit) either partially or fully developed."

SECTION 5. Section 359G-4 is amended by amending subsection (d) to read as follows:<sup>1</sup>

“(d) The authority shall adopt upon direction from the governor and for such period as the governor shall authorize, rules on health, safety, building, planning, zoning, and land use which relate to the development, subdivision, and construction of dwelling units in projects in which the State, through the authority, shall participate; provided that these rules shall not contravene any safety standards or tariffs approved by the public utilities commission; provided further that these rules shall follow existing law as closely as is consistent with the production of [low] lower cost housing with standards which meet minimum requirements of good design, pleasant amenities, health, safety, and coordinated development.

Upon the adoption of such rules they shall have the force and effect of law and shall supersede, for all projects in which the State through the authority shall participate, all other inconsistent laws, ordinances, and rules relating to the use, zoning, planning, and development of land, and the construction of dwelling units thereon; provided that any rules shall, before becoming effective, be presented to the legislative body of each county in which they will be effective and the legislative body of any county may within forty-five days approve or disapprove, for that county, any or all of the rules by a majority vote of its members. On the forty-sixth day after submission any rules not disapproved shall be deemed to have been approved by the county.”

SECTION 6. Section 359G-4.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The authority may develop, on behalf of the State or [in partnership] with an eligible developer, or may assist under a government assistance program in the development of housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon; provided that:

- (1) The authority finds the project is consistent with the purpose and intent of this chapter, and meets minimum requirements of health and safety;
- (2) The development of the proposed project does not contravene any safety standards or tariffs approved by the public utilities commission for public utilities; and
- (3) The legislative body of the county in which the project is to be situated or, where a land designation amendment is required, the land use commission shall have approved the project.
  - (A) The legislative body or land use commission shall approve or disapprove the project within forty-five days after the authority has submitted the preliminary plans and specifications for the project to the legislative body or land use commission. If [after] on the [forty-fifth] forty-sixth day a project is not disapproved, it shall be deemed approved by the legislative body or land use commission.
  - (B) No action shall be prosecuted or maintained against any county, its officials, or employees, on account of actions taken by them in reviewing, approving, or disapproving the plans and specifications.
  - (C) The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and

specifications for the project shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of sections 501-85 and 502-17, the executive director of the authority or the responsible county official may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and registrar.”

SECTION 7. Section 359G-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The authority shall, on behalf of the State, or [in partnership] with [qualified] eligible developers and contractors, develop real property and construct dwelling units thereon. Qualifications for developers and contractors shall be provided by rules to be adopted by the authority in accordance with chapter 91. Any person, if qualified, may act as both the developer and the contractor.”

SECTION 8. Section 359G-10.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In any county, the authority may develop or may enter into agreements for housing projects with [a private developer where] an eligible developer if in the authority’s reasonable judgment a project is primarily designed for [low-income] lower income housing. The agreement may provide for the housing to be placed under the control of the authority, or to be sold by the authority, or to be sold to the authority as soon as the units are completed and shall contain such terms, conditions, and covenants as the authority, by rules made in conformity with this chapter and chapter 91 deems appropriate, and every agreement shall provide for the developer to furnish a performance bond, in favor of the authority, assuring the timely and complete performance of the housing project. Sureties on the bond must be satisfactory to the authority.”

SECTION 9. Section 359G-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The authority may enter into contracts with any eligible bidder to provide for the construction of [urgently needed] housing [for the purpose of providing suitable living accommodations for persons of low income, including elderly persons of low income, or students or faculty of low income of institutions of higher education on lands owned or leased by the State and situated on suitable sites]. Any such contract shall provide that the housing or housing project shall be placed under the control of the authority, as soon as the unit is available for occupancy. Any such contract shall also provide that the capital stock of the mortgagor (where the mortgagor is a corporation) be transferred to the authority, when the housing has been completed. Any such contract shall contain such terms and conditions as the authority may determine to be necessary to protect the interests of the State. Any such contract shall provide for the furnishing by the contractor of a performance bond and a payment bond with sureties satisfactory to the authority, and the furnishing of such bonds shall be deemed a sufficient compliance with the provisions of law and no additional bonds shall be required under law. Before the authority shall enter into any contract as authorized by this

section for the construction of housing, it shall invite the submission of competitive bids after advertising in the manner prescribed by law.”

SECTION 10. Section 359G-11.1, Hawaii Revised Statutes, is amended to read as follows:

“§359G-11.1 Interim financing of projects. (a) The authority may provide interim construction loans to [qualified] eligible developers [and nonprofit corporations whose projects for the development and construction of dwelling units qualify for any federal or state housing program for low income housing]. In addition to the rate of interest charged on interim loans the authority may charge loan commitment fees, to be determined by rules adopted by the authority.

(b) The interim loans shall be secured by a duly recorded first mortgage upon the fee simple or leasehold interest in the land upon which the dwelling units are constructed[. The], or the authority may require such other security interests and instruments as it deems necessary to secure the indebtedness and such other conditions consistent with the production and marketing of dwelling units at the lowest possible prices. The authority may also set the conditions of the loan in a building and loan agreement between the borrower and the authority in order to secure the loan and the performance of the borrower to complete the project.”

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored<sup>2</sup>.

SECTION 12. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 330

H.B. NO. 1889

A Bill for an Act Relating to Permits for Archaeological Work.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 6E-3, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§6E-3~~]]~~ **Historic preservation program.** The department shall establish a comprehensive historic preservation program which shall include, but not be limited to the following:

- (1) Development of an on-going program of historical, architectural, and archaeological research and development, including surveys, excavations, scientific recording, interpretation, and publications on the State’s historical and cultural resources[.];
- (2) Acquisition of historic or cultural properties, real or personal, in fee or in any lesser interest, by gift, purchase, condemnation, devise, or bequest; preservation, restoration, administration, or transference of such property; and the charging of reasonable admissions to such property[.];
- (3) Development of a statewide survey to identify and document historic [property,] properties, including all those owned by the State and its political subdivisions[.];

ACT 331

- (4) Preparation of information for the Hawaii register of historic places and for listing on the national register of historic places[.];
- (5) Preparation, review, and revisions of a state historic preservation plan, including budget requirements and land use recommendations[.];
- (6) Application for and receipt of gifts, grants, technical assistance, and other funding from public and private sources for the purposes of this chapter[.];
- (7) Provision of technical and financial assistance to the political subdivisions of the State[,] and public and private agencies involved in historic preservation activities[.];
- (8) Coordination of activities of the political subdivisions of the State in accordance with the state plan for historic preservation[.];
- (9) Stimulation of public interest in historic preservation, including the development and implementation of interpretive programs for historic properties listed on the Hawaii register of historic places[.];
- (10) Submittal of an annual report to the governor and the legislature detailing the accomplishments of the year and the recommendations for changes in the state plan or future programs relating to historic preservation[.];
- (11) Regulation of archaeological activities throughout the State;
- [(11)] (12) Employment of sufficient professional and technical staff for the purposes of this chapter without regard to chapters 76 and 77[.]; and
- [(12)] (13) [Promulgation] Adoption of rules in accordance with chapter 91, necessary to carry out the purposes of this chapter.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

ACT 331

S.B. NO. 815

A Bill for an Act Relating to Health Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
SOCIAL AND FINANCIAL ASSESSMENT OF  
PROPOSED MANDATORY HEALTH INSURANCE  
COVERAGE**

§ -1 **Proposed mandatory health insurance coverage; impact assessment report.** Before any legislative measure that mandates health insurance coverage for specific health services, specific diseases, or for certain providers of health care services as part of individual or group health insurance policies, can be considered, there shall be concurrent resolutions passed



requesting the legislative auditor to conduct a report that assesses both the social and financial effects of the proposed mandated coverage. For purposes of this chapter, mandated health insurance coverage shall not include mandated optionals.

§ -2 **Assessment report; contents.** The report required under section -1 for assessing the impact of a proposed mandate of health coverage shall include at the minimum and to the extent that information is available, the following:

- (1) The social impact.
  - (A) The extent to which the treatment or service is generally utilized by a significant portion of the population;
  - (B) The extent to which such insurance coverage is already generally available;
  - (C) If coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatment;
  - (D) If the coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment;
  - (E) The level of public demand for the treatment or service;
  - (F) The level of public demand for individual or group insurance coverage of the treatment or service; and
  - (G) The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts; and
  - (H) The impact of indirect costs which are costs other than premiums and administrative costs, on the question of the costs and benefits of coverage.
- (2) The financial impact.
  - (A) The extent to which insurance coverage of the kind proposed would increase or decrease the cost of the treatment or service;
  - (B) The extent to which the proposed coverage might increase the use of the treatment or service;
  - (C) The extent to which the mandated treatment or service might serve as an alternative for more expensive treatment or service;
  - (D) The extent to which insurance coverage of the health care service or provider can be reasonably expected to increase or decrease the insurance premium and administrative expenses of policyholders; and
  - (E) The impact of this coverage on the total cost of health care.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1987-1988, to the office of the legislative auditor to conduct a study on the social and financial impact of mandating the health coverages proposed in the following bills:

- (1) S.B. No. 518, S.D. 2, H.D. 2;
- (2) S.B. No. 1173, H.D. 1, and its companion H.B. No. 343; and
- (3) S.B. No. 986, S.D. 2, H.D. 1, and its companion H.B. No. 885.

The study shall include at the minimum and to the extent that information is available, the contents for assessment reports as set forth in section -2 of Section 1 of this Act.

## ACT 332

SECTION 3. The legislative auditor shall submit a report of its findings and recommendations to the legislature twenty days before the convening of the Regular Session of 1988.

SECTION 4. The sum appropriated shall be expended by the office of the legislative auditor for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 1987.

(Approved June 26, 1987.)

## ACT 332

S.B. NO. 1112

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§431- In vitro fertilization procedure coverage.** All individual and group health insurance policies which provide pregnancy-related benefits shall include in addition to any other benefits for treating infertility, a one-time only benefit for all outpatient expenses arising from in vitro fertilization procedures performed on the insured or the insured's dependent spouse; provided that:

- (1) Benefits under this section shall be provided to the same extent as the benefits provided for other pregnancy-related benefits;
- (2) The patient is the insured or covered dependent of the insured;
- (3) The patient's oocytes are fertilized with the patient's spouse's sperm;
- (4) The:
  - (A) Patient and the patient's spouse have a history of infertility of at least five years' duration; or
  - (B) Infertility is associated with one or more of the following medical conditions:
    - (i) Endometriosis;
    - (ii) Exposure in utero to diethylstilbestrol, commonly known as des;
    - (iii) Blockage of, or surgical removal of, one or both fallopian tubes (lateral or bilateral salpingectomy); or
    - (iv) Abnormal male factors contributing to the infertility.
- (5) The patient has been unable to attain a successful pregnancy through other applicable infertility treatments for which coverage is available under the insurance contract; and
- (6) The in vitro fertilization procedures are performed at medical facilities that conform to the American College of Obstetric and Gynecology guidelines for in vitro fertilization clinics or to the American Fertility Society minimal standards for programs of in vitro fertilization.
- (7) The term "spouse" means a person who is lawfully married to the patient under the laws of the State.

The requirements of this section shall apply to all new policies delivered or issued for delivery in this State after the effective date of this section.”

SECTION 2. Chapter 433, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§433- **In vitro fertilization procedure coverage.** All individual and group hospital or medical service plan contracts which provide pregnancy-related benefits shall include in addition to any other benefits for treating infertility, a one-time only benefit for all outpatient expenses arising from in vitro fertilization procedures performed on the subscriber or member or the subscriber’s or member’s dependent spouse; provided that:

- (1) Benefits under this section shall be provided to the same extent as the benefits provided for other pregnancy-related benefits;
- (2) The patient is a subscriber or member or covered dependent of the subscriber or member;
- (3) The patient’s oocytes are fertilized with the patient’s spouse’s sperm;
- (4) The:
  - (A) Patient and the patient’s spouse have a history of infertility of at least five years’ duration; or
  - (B) Infertility is associated with one or more of the following medical conditions:
    - (i) Endometriosis;
    - (ii) Exposure in utero to diethylstilbestrol, commonly known as des;
    - (iii) Blockage of, or surgical removal of, one or both fallopian tubes (lateral or bilateral salpingectomy); or
    - (iv) Abnormal male factors contributing to the infertility.
- (5) The patient has been unable to attain a successful pregnancy through other applicable infertility treatments for which coverage is available under the contract; and
- (6) The in vitro fertilization procedures are performed at medical facilities that conform to the American College of Obstetric and Gynecology guidelines for in vitro fertilization clinics or to the American Fertility Society minimal standards for programs of in vitro fertilization.
- (7) The term “spouse” means a person who is lawfully married to the patient under the laws of the State.

The requirements of this section shall apply to all hospital or medical service plan contracts delivered or issued for delivery in this State after the effective date of this section.”

SECTION 3. New statutory material is underscored<sup>1</sup>.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 333**

S.B. NO. 1729

A Bill for an Act Relating to County Licenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

**“§46- Administrative inspections and warrants.** (a) The respective counties may conduct inspections to enforce sections 445-91 to 445-96. Each county may conduct its inspections without a warrant if the conditions enumerated in subsection (c) exist. A county shall conduct its inspection with a warrant in accordance with this section if the circumstances enumerated in subsection (c) do not exist or if specific buildings or premises to be inspected can be identified through citizen complaint or by information obtained from state agencies under section 46-. The issuance and execution of an administrative inspection warrant shall be as follows:

- (1) A judge of the circuit court, or any district judge within the judge’s jurisdiction, may issue warrants for the purpose of conducting administrative inspections. The warrants shall be issued upon proper oath or affirmation showing probable cause that:
  - (A) The conditions of a license under section 445-95 have been violated; or
  - (B) A person is operating a lodging or tenement house, group home, group residence, group living arrangement, hotel, boardinghouse, or restaurant without a license;
- (2) A warrant shall issue only upon an affidavit of an individual having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that there is probable cause to believe the grounds for issuing a warrant exist, the judge shall issue a warrant identifying the area, premises, building, or records to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant shall:
  - (A) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;
  - (B) Be directed to a person authorized by the county to execute it;
  - (C) Command the person to whom it is directed to inspect the area, premises, building, or records identified for the purpose specified and, if appropriate, use reasonable force in conducting the inspection authorized by the warrant and direct the seizure of the property specified;
  - (D) Identify the item or types of property to be seized, if any; and
  - (E) Direct that it be served during the daylight business hours between 8:00 a.m. and 5:00 p.m. and designate the judge to whom it shall be returned;
- (3) A warrant issued pursuant to this section shall be executed and returned within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person

other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant; and

(4) The judge who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the issuing court.

(b) The designated representative of the county may make administrative inspections of premises in accordance with the following:

(1) When authorized by an administrative inspection warrant issued pursuant to subsection (a) the representative, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge of the premises may enter the premises for the purpose of conducting an administrative inspection; and

(2) When authorized by an administrative inspection warrant, the representative may inspect and copy records identifying the tenants, lodgers, or boarders of the lodging or tenement house, group home, group residence, group living arrangement, or boardinghouse.

(c) This section does not prevent entries or the inspection without a warrant of property, books, and records pursuant to an administrative subpoena issued in accordance with law:

(1) If the owner, operator, or agent in charge of the provider premises consents;

(2) In situations presenting imminent danger to health or safety of the occupants or customers of any lodging or tenement house, hotel, boardinghouse, or restaurant, or that of the surrounding community; or

(3) In all other situations in which a warrant is not constitutionally required.

**§46- Cooperation by state departments.** All state departments, including the departments of social services and housing and health, shall cooperate with the counties with respect to administrative inspections conducted under section 46- , by providing information:

(1) Regarding probable violations of the conditions of a license under section 445-95;

(2) Regarding the probable operation of a lodging or tenement house, group home, group residence, group living arrangement, hotel, boardinghouse, or restaurant; or

(3) That may be used to satisfy the probable cause requirement of section 46-

**§46- Definitions.** When used in this chapter, unless the context requires otherwise:

“Premises” shall include but not be limited to a lodging or tenement house, group residence, group living arrangement, hotel, boardinghouse, or restaurant as further defined in section 445-90, or any other like facility serving unsupervised or unrelated individuals.”

**SECTION 2.** Chapter 445, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§445- Exemption.** A facility owned or used by a government agency or by a non-profit agency which is registered with the department of commerce and consumer affairs and providing services by contract for a government agency, shall be exempt from this chapter.”

## ACT 333

SECTION 3. Section 445-90, Hawaii Revised Statutes, is amended to read as follows:

**“[§445-90] Definitions.** When used in this chapter, unless the context requires otherwise:

[“Hotel or boardinghouse” means a building or buildings having at least ten rooms for the accommodation of guests.]

“Boardinghouse” means a building or buildings having at least three rooms for the accommodation of six or more unrelated persons and in which the owner or operator furnishes at least one meal per day as part of the accommodations.

“Hotel” means any building or portion thereof or buildings containing more than nine rooming units, in which space is let by the owner or operator to six or more unrelated persons.

“Lodging or tenement house”, “group home”, “group residence”, or “group living arrangement” means any building or portion thereof containing no more than nine rooming units, in which space is let by the owner or operator to three or more unrelated persons.

“Noisy or disorderly conduct” has the same meaning as defined in chapter 711.

“Restaurant” means a building in which the principal business is the furnishing of meals for pay.”

SECTION 4. Section 445-92, Hawaii Revised Statutes, is amended to read as follows:

**“§445-92 Fee[], hotel or boardinghouses]. The annual fee for a license to keep a lodging or tenement house, group home, group residence, group living arrangement, hotel, or boardinghouse shall be \$10.”**

SECTION 5. Section 445-94, Hawaii Revised Statutes, is amended to read as follows:

**“§445-94 [Certificate, department of health.] Certificates. (a)** No license shall be issued for a lodging or tenement house, group home, group residence, group living arrangement, hotel [or], boardinghouse, or restaurant, until the applicant secures from the department of health and presents to the treasurer a certificate setting forth that an agent of the department has examined the building or buildings, proposed to be used for such purposes, with a description thereof sufficient to identify and locate the same; and that the same are in good sanitary condition and suitable to be used for such purposes; and, if the application is for a license for a lodging or tenement house [or], group home, group residence, or group living arrangement, hotel, or boardinghouse, stating the number of persons who, by law, can be lodged therein.

(b) No initial license shall be issued for a lodging or tenement house, group home, group residence, group living arrangement, hotel, boardinghouse, or restaurant, until the applicant secures a clearance from the appropriate county agency responsible for ensuring compliance with county building and zoning codes and presents to the treasurer a certificate setting forth that an agent of the agency has examined the building or buildings, proposed to be used for such purposes, with a description thereof sufficient to identify and locate the same; and that the same are in compliance with the building and zoning codes.”

SECTION 6. Section 445-95, Hawaii Revised Statutes, is amended to read as follows:

**“§445-95 Conditions of license.** A lodging or tenement house, group home, group residence, group living arrangement, hotel [or], boardinghouse, or restaurant license shall be issued upon the following express conditions, which shall be incorporated in the license:

- (1) The licensee shall not [keep a] permit noisy or disorderly conduct in the building or buildings;
- (2) No [prostitute] person engaging in acts of prostitution shall be allowed to reside therein or resort thereto;
- (3) No intoxicating liquor or other intoxicating substance shall be furnished or sold therein, except as authorized by law;
- (4) No more persons shall [at any time] be lodged therein at any time than are permitted by the license;
- (5) The building or buildings and premises licensed shall be kept in good sanitary condition, in accordance with law and with the orders of the agent of the department of health;
- (6) The police [and], agents of the licensing department, agents of the state department of health and agents of the appropriate county agencies responsible for compliance with the county's building and zoning codes shall at all times have access for purposes of inspection; and] to enforce or administer this chapter and other applicable laws or rules;
- (7) No gaming shall be allowed[.];
- (8) The licensee, if a lodging or tenement house, group home, group residence, group living arrangement, or boardinghouse shall keep records identifying its tenants, lodgers, or boarders; and
- (9) No facility shall deliver or purport to deliver health care services or treatment unless it is licensed, certified, or contracted for by the State or other governmental agencies to do so.”

SECTION 7. Section 445-96, Hawaii Revised Statutes, is amended to read as follows:

**“§445-96 Penalty.** (a) Any person who keeps a lodging or tenement house, group home, group residence, group living arrangement, hotel [or], boardinghouse, or restaurant without a license under sections [445-91,] 445-92[,], or 445-93 as applicable shall be guilty of a misdemeanor.

(b) Any person holding a license under this chapter who violates or fails to observe any of the requirements or conditions of this chapter or of the license, shall be fined not less than \$100 nor more than \$1,000 per day of violation for each violation and the court may cancel the license.

(c) Any person who intentionally or knowingly obstructs or interferes with the progress of any authorized inspection pursuant to this chapter shall be guilty of a misdemeanor.”

SECTION 8. Section 445-91, Hawaii Revised Statutes, is repealed.

SECTION 9. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored<sup>1</sup>.

SECTION 11. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

1. Edited pursuant to HRS §23G-16.5.

## ACT 334

S.B. NO. 1734

A Bill for an Act Relating to Developmentally Disabled.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 321-11, Hawaii Revised Statutes, is amended to read as follows:

**“§321-11 Subjects of health rules, generally.** The department of health pursuant to chapter 91 may adopt rules as it deems necessary for the public health and safety respecting:

- (1) Nuisances, foul or noxious odors, gases, vapors, waters in which mosquitoes breed or may breed, sources of filth, and causes of sickness or disease, within the respective districts of the State, and on board any vessel;
- (2) Adulteration and misbranding of food or drugs;
- (3) Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, courts, construction projects, excavations, pools, watercourses, areas, and alleys;
- (4) Privy vaults and cesspools;
- (5) Fish and fishing;
- (6) Interments and dead bodies;
- (7) Disinterments of dead human bodies, including the exposing, disturbing, or removing of such bodies from their place of burial, or the opening, removing, or disturbing after due interment of any receptacle, coffin, or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;
- (8) Cemeteries and burying grounds;
- (9) Laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where foods or beverages are canned or bottled for public consumption or sale; provided that nothing in this chapter shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where the laundering or sterilization is done in an efficient and sanitary manner;
- (10) Hospitals, freestanding surgical outpatient facilities, skilled nursing facilities, intermediate care facilities, adult residential care homes, adult foster [care] homes, special treatment facilities and programs, home health agencies, freestanding birthing facilities, adult day health centers, independent group residences, but excluding youth shelter facilities unless clinical treatment of mental, emotional, or physical disease or handicap is a part of the routine program or constitutes the main purpose of the facility, as defined in section 346-16 under “child care



- institution". For the purpose of this paragraph, "adult foster [care] home" means a private home providing care on a twenty-four hour basis for not more than two developmentally disabled adults at any point in time who are unrelated to the foster family;
- (11) Hotels, rooming houses, lodging houses, apartment houses, tenements, and residences for persons with developmental disabilities including, but not limited to, those built under federal funding;
  - (12) Laboratories;
  - (13) Any place or building where noisome or noxious trades or manufactures are carried on, or intended to be carried on;
  - (14) Milk;
  - (15) Poisons and hazardous substances, the latter term including, but not limited to, any substance or mixture of substances which (A) is corrosive, (B) is an irritant, (C) is a strong sensitizer, (D) is inflammable, or (E) generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children;
  - (16) Pig and duck ranches;
  - (17) Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;
  - (18) Any restaurant, theater, market, stand, shop, store, factory, building, wagon, vehicle, or place where any food, drug, or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale, or offered for human consumption or use;
  - (19) Foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug, or cosmetic;
  - (20) Devices as defined in section 328-1;
  - (21) Sources of ionizing radiation;
  - (22) Medical examination, vaccination, revaccination, and immunization of school children. No child shall be subjected to such medical examination, vaccination, revaccination, or immunization, whose parent or guardian shall in writing object thereto on grounds that such requirements are not in accordance with the religious tenets of an established church of which he is a member or adherent, but no such objection shall be recognized when, in the opinion of the department, there is danger of an epidemic from any communicable disease;
  - (23) Disinsectization of aircraft entering or within the State as may be necessary to prevent the introduction, transmission, or spread of disease or the introduction or spread of any insect or other vector of significance to health;
  - (24) Fumigation. The process by which substances emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents, or other pests, which, in the opinion of the department, may be lethal, poisonous, noxious, or dangerous to human life; and

## ACT 334

### (25) Ambulances and ambulance equipment.

The department may require such certificates, permits, or licenses as it may deem necessary [adequately] to adequately regulate the conditions or businesses referred to in this section."

SECTION 2. Section 2 of Act 328, Session Laws of Hawaii 1986, is amended to read as follows:

"SECTION 2. [A child foster boarding home approved by the department of social services and housing under section 346-17, Hawaii Revised Statutes, which provides foster care to a developmentally disabled child beyond the eighteenth birthday through June 30, 1987, shall be authorized to operate as an adult foster care home upon application to the department of health.] The department of health is authorized to certify adult foster homes for developmentally disabled individuals requiring such care beyond the eighteenth birthday."

SECTION 3. Section 3 of Act 328, Session Laws of Hawaii 1986, is amended to read as follows:

"SECTION 3. The rules of the department of social services and housing adopted under authority of section 346-17, Hawaii Revised Statutes, which prescribe the standards of conditions and competence of operation of child foster boarding homes shall apply to adult foster [care] homes [until June 30, 1987]. Notwithstanding chapter 91, Hawaii Revised Statutes, to the contrary, the rules shall be considered adopted by the department of health on the effective date of this Act for the purpose of regulating adult foster care homes and shall be valid until [June 30, 1987.] the department of health adopts rules pursuant to chapter 91. The department of health shall adopt rules pursuant to chapter 91 necessary for the purposes of this part."

SECTION 4. Section 4 of Act 328, Session Laws of Hawaii 1986, is amended to read as follows:

"SECTION 4. [The department of health shall conduct a study of the problem of the displacement from child foster boarding homes of developmentally disabled persons who reach eighteen years of age. The study shall be for the purpose of determining the scope of the problem, alternative solutions to the problem, adequacy of current public assistance payments for developmentally disabled adults cared for in adult foster care homes, and necessary legislation and administrative rules to effectuate the regulation of adult foster care homes as provided under section 321-11(10), Hawaii Revised Statutes. In the conduct of the study, the department of health shall consult with the department of social services and housing and state planning council on developmental disabilities. The department of health shall submit a report of the findings and recommendations of the study and proposed legislation to the legislature prior to the convening of the Regular Session of 1987.] There is appropriated out of the general revenues of the State of Hawaii the sum of \$37,000, or so much thereof as may be necessary for fiscal year 1987-1988, to regulate adult foster homes. The sum appropriated shall be expended by the department of health for the purposes of this section."

SECTION 5. Section 5 of Act 328, Session Laws of Hawaii 1986, is amended to read as follows:

"SECTION 5. [For the purposes of sections 2, 3, 4, and 6, "adult foster care home" means the same as defined under section 321-11(10), Hawaii Revised Statutes.] Rate of payment for adult foster homes is to be

determined on the same basis as domiciliary care homes as provided under section 346-53, Hawaii Revised Statutes."

SECTION 6. Section 6 of Act 328, Session Laws of Hawaii 1986 is repealed.

["SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$24,000, or so much thereof as may be necessary for fiscal year 1986-1987, to regulate adult foster care homes and conduct the study required under section 4. The sum appropriated shall be expended by the department of health for the purposes of this section."]

SECTION 7. Section 7 of Act 328, Session Laws of Hawaii 1986, is repealed.

["SECTION 7. Rate of payment for adult foster care is to be determined on the same basis as domiciliary care homes as provided under section 346-53, Hawaii Revised Statutes, for the period July 1, 1986 through June 30, 1987."]

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 1987.

(Approved June 26, 1987.)

## ACT 335

S.B. NO. 1765

A Bill for an Act Relating to Transfer of Parks Between the State and the Counties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to enable the transfer of park lands between the State and the counties, including the transfer of related improvements, personnel, equipment, and other resources.

SECTION 2. Section 184-3, Hawaii Revised Statutes, is amended to read as follows:

"§184-3 Powers of department. The department of land and natural resources, in addition to the other powers herein granted, for the purpose of performing its duties and functions may:

- (1) Acquire land in the name of the State or any estate, right, or interest therein or appurtenance thereto, by agreement, gift, devise, lease, or condemnation in accordance with chapter 101, and the department of accounting and general services shall assist the department of land and natural resources therein, at its request, and assign thereto state officers and employees under its supervision for the making of surveys, abstracts, and otherwise as may be of assistance, without reimbursement for such services;
- (2) Receive gifts, bequests, or contributions of money or other property;
- (3) Accept such condition imposed upon any gift or devise of land, money, or other property as may be acceptable to the department and not inconsistent with the proper discharge of its duties and functions;

ACT 336

- (4) Accept transfers and conveyances of rights and titles vested in the United States government to land and buildings within this State, or lease the same under such conditions as the government of the United States may impose;
- (5) Make expenditures from funds available for the care, supervision, improvement, development, and protection of the state park system;
- (6) Construct and operate suitable public services, facilities, and conveniences on any land under its jurisdiction and control, with power to charge and collect reasonable fees for the use of the same, or in its discretion, enter into contracts, leases, or licenses for the construction or operation of any services, facilities, or conveniences on any land under its jurisdiction and control upon such terms and conditions as are deemed by it to be in the public interest, including in the area covered by the contract, lease, or license the amount of land deemed by it to be reasonably necessary to the success of the undertaking;
- (7) Acquire, by condemnation or otherwise, rights appurtenant to abutting property for light, air, and access, whenever necessary or proper for the establishment, development, improvement, or extension of any parkway;
- (8) Cooperate with counties, and other political subdivisions and agencies of the State, and with the states and with the United States government in matters relating to planning, establishing, developing, improving, or maintaining any park, parkway, or recreational area[.];
- (9) Accept from a county, park lands which may include related improvements, personnel, equipment, and functions; and
- (10) Transfer to a county, park lands which may include related improvements, personnel, equipment, and functions."

SECTION 3. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§46- Exchange of park property. The counties may accept from or transfer to the State, park lands, which may include related improvements, personnel, equipment, and functions."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored<sup>1</sup>.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 26, 1987.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 336

S.B. NO. 1747

A Bill for an Act Relating to State Planning.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## “CHAPTER STATE PLANNING

**§ -1 Purpose.** The purpose of this chapter is to establish an office of state planning to assist the governor in maintaining an overall framework to guide the development of the State through a continuous process of comprehensive, long-range, and strategic planning to meet the physical, economic, and social needs of Hawaii’s people, and provide for the wise use of Hawaii’s resources in a coordinated, efficient, and economical manner, including the conservation of those natural, environmental, recreational, scenic, historic, and other limited and irreplaceable resources which are required for future generations.

The establishment of an office of state planning in the office of the governor is intended to:

- (1) Fix responsibility and accountability to successfully carry out statewide planning programs, policies, and priorities;
- (2) Improve the efficiency and effectiveness of the operations of the executive branch;
- (3) Ensure comprehensive planning and coordination to enhance the quality of life of the people of Hawaii.

**§ -2 Office of state planning, establishment; responsibilities.** (a) There is established within the office of the governor an office of state planning. The head of the office shall be known as the director of the office of state planning, hereinafter referred to as director. The director shall have: training in the field of urban or regional planning, public administration, or other related fields; experience in programs or services related to governmental planning; and experience in a supervisory, consultative, or administrative capacity. The director shall be appointed by the governor without regard to chapters 76 and 77, and shall be compensated at a salary level set by the governor. The director shall be included in any benefit program generally applicable to the officers and employees of the State. The director shall retain such staff as may be necessary for the purposes of this chapter, in conformity with chapters 76 and 77.

(b) The office of state planning shall gather, analyze, and provide information to the governor to assist in the overall analysis and formulation of state policies and strategies to provide central direction and cohesion in the allocation of resources and effectuation of state activities and programs, and effectively address current or emerging issues and opportunities. More specifically, the office shall engage in the following activities:

- (1) Comprehensive planning and program coordination. Formulating and articulating comprehensive statewide goals, objectives, policies, and priorities, and coordinating their implementation through the statewide planning system established in part II of chapter 226.
- (2) Strategic planning. Identifying and analyzing significant issues, problems, and opportunities confronting the State, and formulating strategies and alternative courses of action in response to identified problems and opportunities by:
  - (A) Providing in-depth policy research, analysis, and recommendations on existing or potential areas of critical state concern;
  - (B) Examining and evaluating the effectiveness of state programs in implementing state policies and priorities;

- (C) Monitoring through surveys, environmental scanning, and other techniques—current social, economic, and physical conditions and trends; and
  - (D) Developing, in collaboration with affected public or private agencies and organizations, implementation plans and schedules and, where appropriate, assisting in the mobilization of resources to meet identified needs.
- (3) Population planning. Planning for the management of the State's population size, rate of growth, and distribution through research, coordination, and technical assistance to state and county agencies.
- (4) Intergovernmental coordination and cooperation. Facilitating coordinated and cooperative planning and policy development and implementation activities among state agencies, and between the state, county, and federal governments, by:
- (A) Reviewing, assessing, and coordinating, as necessary, major plans, programs, projects, and regulatory activities existing or proposed by state and county agencies; and
  - (B) Formulating mechanisms to simplify, streamline, or coordinate interagency development and regulatory processes.
- (5) Collection and dissemination of information. Collecting, analyzing, maintaining, and disseminating data and information to further effective state planning, policy analysis, and development, and delivery of government services by:
- (A) Assembling, organizing, evaluating, and classifying existing data and performing necessary basic research in order to provide a common data base for governmental planning; and
  - (B) Maintaining a centralized depository of state and national planning references.
- (6) Capital investment planning.
- (A) In cooperation with the director of finance, establishing guidelines and criteria for capital expenditures consistent with statewide planning goals and objectives and executive priorities;
  - (B) Reviewing, prioritizing, and evaluating capital improvement projects proposed or undertaken by state and county agencies to assure conformity with statewide planning goals and objectives and executive priorities, and reporting its findings and recommendations to the governor and the legislature relative to the allocation of funds;
  - (C) Reviewing, analyzing, and reporting on state and county capital improvement projects which extend over wide geographical areas of the state and which have significant impacts upon economic development, land use, environmental quality, construction employment and executive policy directions;
  - (D) Directing and coordinating the development of the statewide capital improvement program expenditure and priorities plan, and reviewing and evaluating capital expenditure plans of the state departments; and
  - (E) Reviewing, in cooperation with the various state departments, the general and development plans of each county to identify statewide interests and to determine state capital improvement project needs of the plans; and

- (F) Submitting to the legislature a biennial report identifying statewide interests, capital improvement project needs, capital improvement priorities and the capital improvement projects that the state can reasonably be expected to finance over the period of the six-year capital improvement project forecast.

In furtherance of these responsibilities, before each regular session of the legislature, the director of finance shall supply the governor with copies of the various requests for capital expenditures as received from state agencies for inclusion in the proposed state executive budget. The director of finance shall also supply the governor with a list of proposed public works to be constructed during the succeeding six years. Each county shall similarly provide the governor with a list of necessary capital improvements to be constructed in the respective counties during the succeeding six years. In preparing the lists, the counties shall indicate the contemplated means of financing each project. The office of state planning shall review the various requests for capital expenditures and improvements in relation to chapter 226 and any goals and objectives which the governor may prescribe. The office of state planning shall advise the governor on capital expenditure requests and shall assist the governor in the implementation of those projects that are authorized and funded.

**§ -3 Cooperation.** The office of state planning shall seek the widest possible cooperation from public and private agencies and the federal government to achieve the purposes of this chapter. It shall work closely with and assist the counties in the promotion of coordinated state and county planning.

Every state department, county agency, or other public or private agencies providing planning programs and services shall be encouraged to participate actively in the activities of the office of state planning. The executive heads of all state departments and agencies shall cooperate with the office of state planning by providing information as the governor deems necessary for the effective discharge of its duties.

Nothing in this chapter shall be deemed to delegate or detract in any way from the functions, powers, and duties conferred by law on any department or agency of the State or county.

**§ -4 Allocation of funds.** Any of the agencies of the State to which general or special appropriations are made, or a part of whose budget contains an allocation, or which makes an allocation of funds for planning and research, shall consult with the office of state planning to ensure that all expenditures are in accordance with, or in furtherance of the goals and objectives of the Hawaii State Plan. The governor may withhold the expenditure of these funds by any agency until the governor is satisfied that the expenditures will implement those goals and objectives."

SECTION 2. Part I of chapter 201, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

**"§201- Integration and development of tourist industry.** The director of business and economic development shall plan for the integrated and coordinated development and expansion of the tourist industry of the State. The director shall investigate and recommend to appropriate governmental officers, agencies, legislative committees and private groups, ways and means of coordinating promotional activities on behalf of tourism with the

development of recreational and other facilities for improved tourist development. The director shall also review the expenditure of governmental funds for tourism related activities and shall prepare an annual report on the expenditures, together with any recommendations the director may have, for transmission to the members of the legislature not less than twenty days prior to the convening of each regular legislative session.

**§201- Tourism impact management system.** The director shall establish a system to:

- (1) Monitor the impact of tourism development and activities on the economic, social, and physical environment of the residents of Hawaii;
- (2) Identify those current and emerging conditions which are having or are likely to have negative effects on residents;
- (3) Survey and analyze the specific concerns of communities with high tourism impact;
- (4) Inform appropriate public officials and private parties of the negative effects;
- (5) Advocate, on behalf of residents and whenever possible, solutions to ameliorate, avoid, or prevent the undesirable effects; and
- (6) Bring major tourism impact issues to the attention of appropriate legislative bodies.

The director shall publish an annual report which describes the system's application in the preceding year, including the conditions and negative effects identified, the solutions recommended or pursued by responsible agencies or parties, and the results obtained.

**§201- Federal funds.** Where the governor or the department with the approval of the governor is able to secure federal funds made available under any act of the Congress of the United States to be expended in connection with or for planning grants and community development block grants, the governor or department shall have the power to enter into such undertakings with the proper officers or agencies of the federal government. The department may adopt rules pursuant to chapter 91 as may be necessary to administer and effectuate federal grants and programs that it has been assigned.

**§201- Data or information collection.** The director, in consultation with all affected governmental agencies, shall assess the need for statistics and other information as to the number, characteristics, needs, and movement of people into, out of, or within Hawaii, including residents, migrants, and visitors, and such other information as the director may deem necessary, for the purposes of sound economic research and analysis. The director shall be responsible for collecting, analyzing, and disseminating such information to governmental agencies on a timely basis, and is authorized to use any appropriate method to collect the information, including but not limited to conducting an entry and exit census or survey of all individuals entering, leaving, or living within the State, and obtaining data or information acquired by other agencies, both public and private. All governmental agencies shall cooperate with and assist the director to implement this section.

The director may adopt necessary rules pursuant to chapter 91, to administer this section."

SECTION 3. Chapter 26, Hawaii Revised Statutes, is amended:

1. By amending section 26-4 to read as follows:



**“§26-4 Structure of government.** Under the supervision of the governor, all executive and administrative offices, departments, and instrumentalities of the state government and their respective functions, powers, and duties shall be allocated among and within the following principal departments which are hereby established:

- (1) Department of personnel services (Section 26-5)
- (2) Department of accounting and general services (Section 26-6)
- (3) Department of the attorney general (Section 26-7)
- (4) Department of budget and finance (Section 26-8)
- (5) Department of commerce and consumer affairs (Section 26-9)
- (6) Department of taxation (Section 26-10)
- (7) University of Hawaii (Section 26-11)
- (8) Department of education (Section 26-12)
- (9) Department of health (Section 26-13)
- (10) Department of social services and housing (Section 26-14)
- (11) Department of land and natural resources (Section 26-15)
- (12) Department of agriculture (Section 26-16)
- (13) Department of Hawaiian home lands (Section 26-17)
- (14) Department of [planning] business and economic development (Section 26-18)
- (15) Department of transportation (Section 26-19)
- (16) Department of labor and industrial relations (Section 26-20)
- (17) Department of defense (Section 26-21)”

2. By amending section 26-18 to read as follows:

**“§26-18 Department of [planning] business and economic development.** The department of [planning] business and economic development shall be headed by a single executive to be known as the director of [planning] business and economic development.

The department shall undertake statewide [planning] business and economic development activities, undertake energy development and management, provide economic research and analysis, plan for the use of Hawaii's ocean resources, and encourage the development and promotion of industry and international commerce through programs established by law.

The following are placed in the department of [planning] business and economic development for administrative purposes as defined by section 26-35: Aloha Tower Development Corporation, Hawaii community development authority, high technology development corporation, land use commission, natural energy laboratory of Hawaii, and any other boards and commissions as shall be provided by law.

The department of [planning] business and economic development shall be empowered to establish, modify, or abolish statistical boundaries for cities, towns, or villages in the State. The department shall publish annually an up-to-date list of cities, towns, and villages for which statistical boundaries have been set.”

3. By amending section 26-52 to read as follows:

**“§26-52 Department heads and executive officers.** The salaries of the following state officers shall be as follows:

- (1) Effective January 1, 1986, the salary of the superintendent of education shall be \$76,000 a year.
- (2) The salary of the president of the University of Hawaii shall be set by the board of regents, but shall not exceed \$95,000 a year.
- (3) Effective January 1, 1986, the salaries of all department heads or executive officers of the departments of accounting and general

services, agriculture, attorney general, budget and finance, commerce and consumer affairs, Hawaiian home lands, health, labor and industrial relations, land and natural resources, personnel services, [planning] business and economic development, social services and housing, taxation, and transportation shall be \$68,400 a year.

- (4) Effective January 1, 1986, the salary of the adjutant general shall be \$68,400 a year. If the salary is in conflict with the pay and allowance fixed by the tables of the regular army of the United States, the latter shall prevail.”

SECTION 4. Chapter 226, Hawaii Revised Statutes, is amended:

1. By amending section 226-2 by amending the definition of department to read as follows:

- “(1) [“Department” means the department of planning and economic development.] “Office” means the office of state planning.”

2. By amending section 226-52 to read as follows:

**“§226-52 Statewide planning system.** (a) The statewide planning system shall consist of the following policies, plans, and programs:

- (1) The overall theme, goals, objectives, and policies established in this chapter shall provide the broad guidelines for the State.
- (2) The priority guidelines established in this chapter shall provide guidelines for decision-making by the State and the counties for the immediate future and set priorities for the allocation of resources. The formulation and [amendment] revision of state functional plans shall be in conformance with the priority guidelines.
- (3) State functional plans shall be prepared [for,] to address, but not limited to, the areas of agriculture, conservation lands, education, energy, higher education, health, historic preservation, housing, recreation, tourism, transportation, and water resources development. State functional plans shall define, implement, and be in conformance with the overall theme, goals, objectives, policies, and priority guidelines contained within this chapter. County general plans and development plans shall be taken into consideration in the formulation and [amendment] revision of state functional plans.
- (4) County general plans shall indicate desired population and physical development patterns for each county and regions within each county. In addition, county general plans or development plans shall address the unique problems and needs of each county and regions within each county. County general plans or development plans shall further define the overall theme, goals, objectives, policies, and priority guidelines contained within this chapter. State functional plans [which have been adopted by concurrent resolution by the legislature] shall be taken into consideration in amending the county general plans.
- (5) State programs shall include, but not be limited to, those programs involving coordination and review; research and support; design, construction, and maintenance; services; and regulatory powers. State programs that exercise coordination and review functions shall include, but not be limited to, the state clearing-house process, capital improvements program, and coastal zone

management program. State programs that exercise regulatory powers in resource allocation shall include, but not be limited to, the land use management programs administered by the land use commission and the board of land and natural resources. State programs shall further define, implement, and be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans [adopted] approved pursuant to this chapter.

(b) The statewide planning system shall also consist of several implementation mechanisms:

(1) The overall review, coordination, and evaluation process. The overall review, coordination, and evaluation shall be conducted by the policy council, with the assistance of the [department.] office.

(2) The state budgetary, land use, and other decision-making processes. The state budgetary, land use, and other decision-making processes shall consist of:

(A) Program appropriations process. The appropriation of funds for major programs under the biennial and supplemental budgets[,] shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans [adopted] approved pursuant to this chapter.

(B) Capital improvement project appropriations process. The appropriation of funds for major plans and projects under the capital improvements program shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans [adopted] approved pursuant to this chapter.

(C) Budgetary review process of the department of budget and finance. The budgetary review and allocation process of the department of budget and finance shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans [adopted] approved pursuant to this chapter.

(D) Land use decision-making processes of state agencies. Land use decisions made by state agencies shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans [adopted] approved pursuant to this chapter. The rules adopted by appropriate state agencies to govern land use decision-making shall be in conformance with the overall theme, goals, objectives, and policies contained within this chapter.

(E) All other regulatory and administrative decision-making processes of state agencies shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans [adopted] approved pursuant to this chapter. Rules adopted by state

agencies to govern decision-making shall be in conformance with the overall theme, goals, objectives, and policies contained within this chapter.

- (3) Other coordination processes which include the use of the state clearinghouse process. The state clearinghouse shall coordinate the review of all federally-assisted and direct federal development projects which are covered under the state clearinghouse process and shall notify the policy council of all proposed federally-assisted or direct federal development projects which conflict with this chapter, or any functional plan [adopted] approved under this chapter.”

3. By amending subsections (a) and (b) of section 226-53 to read as follows:

“(a) There is established a policy council whose membership shall include the following:

- (1) The planning director from each county.
- (2) Nine public members, being four from the city and county of Honolulu, one from the county of Kauai, and two from each of the counties of Maui and Hawaii[.]; provided that in the case of the county of Maui, one such public member shall be from Molokai or Lanai and, in the case of the county of Hawaii, one public member shall be from west Hawaii and one from east Hawaii, appointed by the governor from a list of public persons from each county which shall through its mayor or council, submit no less than three names for each appointive public member to which the county is entitled. The governor shall request lists of public persons from the respective mayors for appointment to the policy council. Within thirty days following the date of the governor’s request, the mayor of the respective county shall submit the list to the council of the respective county for advice and consent. Within sixty days of the date of the governor’s request, the mayor shall submit the list of public persons, with the advice and consent of the council of the respective county, to the governor for appointment to the policy council. If the mayor fails to submit a list to the council within thirty days of the date of the governor’s request, the council shall submit a list to the governor within sixty days of the governor’s request. If a list of public persons is not submitted by either the mayor or the council to the governor within sixty days following the date of the request for such a list, the governor shall appoint the public members from that county in accordance with the applicable geographic representation set forth above without nominations from that mayor.
- (3) The directors or chairmen from the departments of agriculture, budget and finance, [planning] business and economic development, land and natural resources, health, social services and housing, transportation, and labor and industrial relations; from the office of environmental quality control; the superintendent of education; the president of the University of Hawaii; the executive director of the Hawaii housing authority; [and] the executive officer of the land use commission[.]; and the director of the office of state planning.

The director of the [department of planning and economic development] office of state planning shall serve as chairman of the council.

The terms of the nine members from the public shall be for four years; provided that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year. Each such term shall commence on January 1 and expire on December 31; provided that the governor may establish the commencing and expiration dates of the terms of those initially appointed. No member from the public shall be appointed consecutively to more than two terms; provided that membership shall not exceed eight consecutive years. No member from the public shall serve on any other public board or commission. The governor may remove or suspend for cause any member of the council after due notice and public hearing.

Expenses incurred by a state governmental member participating in policy council deliberations shall be borne by the member's respective governmental agency. Travel expenses incurred by planning directors participating in policy council deliberations shall be reimbursed by the [department of planning and economic development.] office of state planning. A public member shall receive no compensation for the member's services, but each shall be reimbursed by the [department of planning and economic development] office of state planning for necessary expenses incurred in the performance of the member's duties.

(b) There shall be a total of eighteen voting members on the policy council. The voting rights shall be apportioned as follows:

- (1) The planning director from each county shall each be entitled to one vote;
- (2) The nine members from the public shall each be entitled to one vote; and
- (3) The chairman of the council and four of the state agency heads herein described shall each be entitled to one vote.

The governor, in consultation with the director of the [department of planning and economic development.] office of state planning, shall determine which of the other state agency heads described herein shall have voting rights on the basis of the subject matter or functional area before the policy council. The governor may also rotate the voting rights among those state agency heads deemed most affected by the nature of the subject matter or functional area before the policy council; provided that the state agency heads shall not cast more than five votes on any one issue before the policy council. State agency heads who are not entitled to vote upon a given subject or functional area shall serve as ex-officio members of the policy council."

4. By amending section 226-54 to read as follows:

**"§226-54 Policy council; duties.** The policy council shall:

- (1) Provide a forum for the discussion of conflicts between and among this chapter, functional plans [either adopted by the legislature or to be submitted to the legislature for adoption], county general plans and development plans, and state programs;
- (2) Transmit to the governor, legislature, and the mayors and legislative bodies of the respective counties its findings and recommendations on all conflicts as described above, and on the resolution of conflicts;
- (3) Review and evaluate state functional plans for conformance with the provisions of this chapter, seek to resolve any identified conflicts, and transmit its findings and recommendations to the legislature [at the time of submittal of the functional plan];

- (4) Advise the legislature on the administration, amendment, and review of this chapter, including the overall theme, goals, objectives, policies, and priority guidelines contained within this chapter;
- [(5)] Prepare guidelines for the development of the state functional plans in accordance with sections 226-57 and 226-58;
- (6) [(5)] Adopt rules in accordance with section 226-56 to provide procedures for public input into the amendment processes and for submittal of proposed amendments;
- [(7)] [(6)] Maintain a record of its activities;
- [(8)] [(7)] Conduct a comprehensive review of part I of this chapter at least every four years following enactment by the legislature, and part III of this chapter at least every odd-numbered year to coincide with the state budget process [commencing in 1981]; and
- [(9)] [(8)] Prepare [an annual review and] a biennial report to the legislature in accordance with section [226-63.]226-62."

5. By amending section 226-55 to read as follows:

**"§226-55 [Department of planning and economic development;] Office of state planning; duties. The [department] office shall provide assistance and staff services to the policy council in administering this chapter. To further the intent and purpose of this chapter, the [department] office shall:**

- (1) Provide recommendations to the governor and the policy council on conflicts between and among this chapter, state functional plans [either adopted by the legislature or to be submitted to the legislature for adoption,] approved by the governor, county general plans and development plans, and state programs;
- (2) Review and evaluate this chapter and recommend amendments as needed to the policy council;
- (3) Review, as necessary, major plans, programs, projects, and regulatory activities proposed by state and county agencies, and provide advisory opinions and reports to the policy council as needed;
- (4) Analyze existing state policies, planning and program operations, laws, rules and practices relative to formulation, implementation, and coordination of the state plan;
- (5) Review state capital improvement projects for consistency with this chapter and report findings and recommendations to the governor prior to allocation of funds;
- (6) Conduct special studies and prepare reports that address major policy issues relating to statewide growth and development;
- (7) Cooperate with all public agencies to ensure an ongoing, uniform, and reliable base of data and projections;
- (8) Assist the policy council in conducting a comprehensive review of part I of this chapter at least every four years following enactment by the legislature, and part III of this chapter at least every odd-numbered year [commencing in 1981];
- (9) Assist the policy council in preparing and submitting [an annual] its biennial review and report to the legislature in accordance with section [226-63;] 226-62;
- (10) Prepare and adopt in consultation with the policy council, administrative guidelines in accordance with this chapter and chapter 91; [and]

- (11) Provide other technical assistance and staff services to the policy council as needed[.]; and
- (12) Prepare guidelines for the development and implementation of the state functional plans in accordance with section 226-57 and 226-58.

The [department] office may contract with public and private agencies and persons for special research and planning assistance.”

6. By amending section 226-56 to read as follows:

**“§226-56 Amendments to the overall theme, goals, objectives, policies, and priority guidelines.** The policy council shall [promulgate] adopt rules for amendments to the goals, objectives, policies, and priority guidelines, subject to the following provisions:

- (1) Any person may submit to the [department] office proposals for the revision of the overall theme, goals, objectives, policies, and priority guidelines;
- (2) The [department] office shall review the proposed amendments to the overall theme, goals, objectives, policies, and priority guidelines and shall submit its findings and recommendations to the policy council;
- (3) The policy council shall submit its final recommendations on the amendments to the overall theme, goals, objectives, policies, and priority guidelines to the legislature thirty days prior to the convening of the next legislative session following its review of the proposed amendments, along with minority reports, if any; and
- (4) The policy council, in reviewing the proposed amendments of the [department,] office, shall make public its findings and recommendations and shall hold public hearings in each county of the State in accordance with chapter 91. There shall be not less than two public hearings in each county on the recommended revisions to the overall theme, goals, objectives, and policies of the state plan; provided that there shall be not less than three public hearings in the city and county of Honolulu and there shall be not less than one public hearing on each of the islands of Maui, Molokai, and Lanai in the county of Maui.”

7. By amending section 226-57 to read as follows:

**“§226-57 Functional plans; preparation.** (a) The state agency head primarily responsible for a given functional area shall prepare the functional plan for the area. In the preparation of the functional plan, the state agency head shall work in close cooperation with the advisory committee, respective officials, and people of each county. In the formulation of the functional plan, the preparing agency shall solicit public views and concerns. The formulation and [amendment] revision of a state functional plan shall conform to the provisions of this chapter and shall take into consideration the county general plans. Functional plans and any [amendments] revisions thereto shall be [adopted] approved by the [legislature by concurrent resolution and shall, upon adoption, provide] governor to serve as guidelines to state and county agencies], provided that in the event of a conflict between the proposed functional plan and general plan of a county, every effort shall be made to determine which of the matters in conflict has the greater merit and recommend modifications by the appropriate state or county agency to the proposed functional plan or county general plan. Where such accord

cannot be achieved, the policy council shall prepare a report to the legislature citing the differences and the justification for each of the conflicting positions together with recommendation. Minority reports, if any, may be submitted to the legislature].

(b) The functional plan shall contain objectives to be achieved and policies and implementing actions to be pursued in the primary field of activity and [such policies] shall address major programs and the location of major facilities.

(c) For each functional plan, the governor shall establish an advisory committee, where an advisory body which meets the criteria set out hereunder is not already in existence, whose membership shall be composed of at least one public official from each county to be nominated by the mayor of each county; members of the public; experts in the field for which a functional plan is being prepared; and state officials. The governor shall request the nominations from each of the respective mayors and shall appoint the public official nominated by the mayor of the respective county to serve on the advisory committee. If the nominations of county officials by a mayor are not submitted to the governor within sixty days following the date of the governor's request for such nominations, the governor shall appoint at least one public official from that county to serve on the advisory committee without nominations from that mayor. The committee shall advise the state agency in preparing a functional plan to be in conformance with the overall theme, goals, objectives, policies, and priority guidelines contained within this chapter. The approved functional plan, [with any recommendations of the advisory committee including minority reports, if any,] shall be submitted to the policy council for review and evaluation. [After the functional plan is adopted by the legislature, the] The committee shall also advise the state agency in the implementation, monitoring, and future updating of the plan. The advisory committee shall serve as a permanent advisory body to the state agency responsible for preparing each respective functional plan. The terms of members from the public and experts in the field for which a functional plan is prepared shall be for four years. Each term shall commence on July 1 and expire on June 30. No member from the public or expert in the field shall be appointed consecutively to more than two terms. These appointments shall not be subject to senate confirmation, and shall be exempt from [the provisions of] sections 26-34(a) and 78-4(a) regarding the appointment to boards and commissions."

8. By amending section 226-58, to read as follows:

**"§226-58 Functional plans; form and submittal.** (a) Functional plans shall be prepared to further define and implement statewide guidelines with respect to goals, objectives, policies, and priority guidelines<sup>1</sup>.

(b) A functional plan shall be submitted to the policy council for review and evaluation at least ninety days prior to the date designated for submittal to the legislature. The policy council shall submit findings and recommendations to the legislature on each functional plan reviewed.

(c) The functional plans for agriculture, housing, tourism, and transportation, with any findings and recommendations of the policy council, shall be submitted not later than thirty days prior to the convening of the 1979 legislature. The functional plans for conservation lands, education, energy, higher education, health, historic preservation, recreation, and water resources development, with any findings and recommendations of the policy council, shall be submitted not later than thirty days prior to the convening of the 1980 legislature.



(d) Upon receipt by the legislature of a functional plan prepared by the appropriate state agency and submitted by the governor, with the findings and recommendations of the policy council, the legislature shall review, modify, and as appropriate, adopt the functional plan by concurrent resolution.

(e) If the legislature fails to adopt such functional plan by concurrent resolution, it shall revert to the state agency of origin for revision and be resubmitted thirty days prior to the convening of the next legislature.]

(b) The governor shall transmit approved state functional plans to the legislature for its information.

(c) An approved functional plan shall be submitted to the policy council for its review and evaluation prior to its transmittal to the legislature. The policy council shall submit findings and recommendations to the legislature on each functional plan reviewed, in terms of its conformance with this chapter."

9. By amending section 226-59 to read as follows:

**"§226-59 Functional plans; implementation.** (a) Functional plans shall [not] be used as [a guide nor as a statement or interpretation of] guidelines to implement state [policy unless said plans shall have been approved] policies adopted by the legislature.

(b) The legislature, upon a finding of overriding statewide concern, may determine in any given instance that the site for a specific project may be other than that designated on the county general plan; provided that any proposed facility or project contained in a county general plan shall not require the actual development or implementation of [said] that facility or project or the inclusion of the same in any state functional plan by any state agency. The implementation of functional plans shall conform to existing laws, rules, and standards, and [the provisions of] this chapter.

10. By repealing section 226-60.

11. By amending section 226-61 to read as follows:

**"[§226-61] §226-60 County general plans.** (a) The county general plans and development plans [[shall be]] formulated with input from the state and county agencies as well as the general public.

County general plans or development plans shall indicate desired population and physical development patterns for each county and regions within each county. In addition, county general plans or development plans shall address the unique problems and needs of each county and regions within each county. The county general plans or development plans shall further define applicable provisions of this chapter, provided that any amendment to the county general plan of each county shall not be contrary to the county charter. The formulation, amendment, and implementation of county general plans or development plans shall take into consideration statewide objectives, policies, and programs stipulated in state functional plans [adopted] approved in consonance with this chapter.

(b) County general plans shall be formulated on the basis of sound rationale, data, analyses, and input from state and county agencies and the general public, and contain objectives and policies as required by the charter of each county. Further, the county general plans should:

(1) Contain objectives to be achieved and policies to be pursued with respect to population density, land use, transportation system location, public and community facility locations, water and sewage system locations, visitor destinations, urban design

and all other matters necessary for the coordinated development of each county and regions within the<sup>1</sup> county.

- (2) Contain implementation priorities and actions to carry out policies to include but not be limited to, land use maps, programs, projects, regulatory measures, standards and principles and interagency coordination provisions.”

12. By amending section 226-62 to read as follows:

“**[§226-62] §226-61 State programs.** (a) The formulation, administration, and implementation of state programs shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans [adopted] approved pursuant to this chapter.

(b) The director of the [department of planning and economic development] office of state planning shall assist the governor in assuring that state programs are in conformance with this chapter.”

13. By amending section 226-63 to read as follows:

“**[§226-63] §226-62 [Annual] Biennial review and report.** (a) The policy council, with the assistance of the [department,] office, shall prepare [an annual] a biennial report for submittal to the legislature, mayors, and county councils. The [annual] biennial report shall contain recommendations for legislative consideration and action. Major components of the [annual] review and report shall include the following:

- (1) An assessment of progress being made in attaining the overall theme, goals, objectives, policies, and priority guidelines contained within this chapter and the state functional plans;
- (2) Recommendations to improve coordination between and among the overall theme, goals, objectives, policies, and priority guidelines contained within this chapter, county general plans and development plans, state functional plans, and state programs; and
- (3) An assessment of legislation and programs of the preceding [calendar year] two years that have major statewide or county-wide impact in terms of their consistency with this chapter.

[(b) Prior to the submittal of the annual report to the legislature and the counties, the department shall hold public informational meetings in each county of the State, provided that in the county of Maui there shall be at least one public hearing on Lanai and Molokai.

(c) ~~(b)~~ The [annual] biennial review and report shall be submitted to the legislature, mayors, and the county councils no later than February 1 of each odd numbered year.”

SECTION 5. Section 279A-4, Hawaii Revised Statutes, is amended to read as follows:

“**§279A-4 Statewide transportation council; establishment.** To assist and advise the state department of transportation in the development of the statewide transportation plan there is hereby established a statewide transportation council consisting of [thirteen] fourteen members. The members of the council shall be the directors of the state department of transportation, the state department of [planning] business and economic development, the state department of health, [and] the state office of environmental quality control, and the office of state planning, the chairman of the board of agriculture, the planning directors of each of the four counties, and the transportation directors of each of the four counties. The members may be

represented at council meetings by their designated alternates. The director of the state department of transportation shall submit recommendations to the council for additional ex officio nonvoting members who, upon the majority vote of the council, shall be invited to serve.

The department of transportation shall furnish staff support to the council; such staff may be exempt from [the provisions of] chapters 76 and 77. The director of [the department of] transportation shall be the chairman of the council. All decisions of the council shall be by majority vote unless otherwise provided."

SECTION 6. Section 279E-2, Hawaii Revised Statutes, is amended to read as follows:

**"[§279E-2] Establishment of Metropolitan Planning Organization.**

There is established in each county with a population in excess of 200,000 a metropolitan planning organization called the Metropolitan Planning Organization, abbreviated by the letters MPO. The MPO shall be an advisory body responsible for carrying out a continuing, comprehensive, transportation planning process in cooperation with the State and the appropriate county in order to advise appropriate state, county, and federal agencies regarding that process.

The MPO shall develop through continuing cooperative input from state and county planning agencies, the transportation plans and planning processes or policies enumerated herein and shall submit those plans and planning processes together with any other advice on transportation planning as may be required to the state legislature, the state department of transportation, the state department of [planning] business and economic development, the office of state planning, the legislative body of the appropriate county, the transportation and planning agencies of the appropriate county, and appropriate federal agencies.

The MPO shall further assist and advise the state legislature, the state department of transportation, the state department of [planning] business and economic development, the office of state planning, the legislative body of the appropriate county and the transportation and planning agencies of the appropriate county in carrying out comprehensive metropolitan transportation planning embracing airports, bikeways, harbors, highways, transit and waterways within the appropriate county. The MPO shall assist and advise such appropriate agencies in evaluating studies and programs related to transportation planning. The MPO shall recognize that all of its activities shall be primarily advisory, and that the policy making powers shall remain with the legislature or the legislative body of the appropriate county, whichever the case may be. The MPO is to develop and recommend policies, priorities, and techniques relating to transportation planning, and shall be directly accountable to the legislature and the legislative body of the county as an advisory body.

For administrative purposes only, each MPO shall be assigned in part to the department of transportation of the State of Hawaii and in part to the county.

Nothing in this law is intended to change the basic jurisdiction for planning responsibilities already given to the state and county agencies in existing statutes and ordinances. Those state and county agencies are to cooperate with the MPO by providing input from their present planning processes and the MPO will advise those agencies by way of submitting to them the coordinated plan which it develops."

## ACT 336

**SECTION 7.** Chapters 48, 201, 203, 205, 205A, 206E, 206J, 206M, 208, 209, 210, 211, 211E, 212, 213, 221, 227, 307, 354, 420, and 486E, and sections 4E-1, 76-16, 153-4.5, 164-1, 171-42, 176-2, 188E-1, 189-21, 189-42, 196-1, 246-12, 420-2, and 445-112, Hawaii Revised Statutes, are amended by replacing every reference to "director of planning and economic development" or "director of department of planning and economic development" or like terms with "director of business and economic development" and by replacing every reference to "department of planning and economic development" or like terms with "department of business and economic development" or like terms.

**SECTION 8.** Sections 195-6 and 214-4, Hawaii Revised Statutes, are amended by replacing every reference to "director of planning and economic development" with "director of the office of state planning", and by replacing every reference to "department of planning and economic development" with "office of state planning".

**SECTION 9.** Parts II and III of chapter 201, Hawaii Revised Statutes, are repealed.

**SECTION 10. Transfer of personnel.** Except as provided in this section, all officers and employees whose activities are transferred by this Act, including but not limited to persons employed at the planning division, and population analysis staff of the research and economic analysis division of the department of planning and economic development, and the Hawaii institute for management and analysis in government, may be transferred with those activities and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State transferred under this section shall suffer any loss of civil service status, salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

In the event that an office or position held by an officer or employee having tenure is abolished or an officer or employee whose activities are transferred under this Act would prefer not to be transferred to continue performing those activities, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the director of business and economic development or the governor.

**SECTION 11. Transfer of records, equipment, authorization, and other property.** All appropriate records, equipment, files, supplies, contracts, books, papers, documents, maps, authorizations, and other property heretofore made, used, acquired, or held in conjunction with activities transferred by this Act shall be transferred with the activities to which they relate.

**SECTION 12. Transfer of funds.** All funds appropriated for the 1987-1989 fiscal biennium, directly or indirectly, relating to the activities transferred under this Act shall be appropriately transferred to the office of the governor with the activities to which they relate.

**SECTION 13. Appropriations to effect transfer.** There is appropriated out of the general revenues of the State of Hawaii for the fiscal biennium 1987-1989 the sum of \$115,000, or so much thereof as may be necessary, for the purpose of implementing this Act. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1988 shall lapse into the general fund.

**SECTION 14. Federal aid, contract and bond obligations; not impaired.** It is the intent of this Act to neither jeopardize the receipt of any federal aid nor impair the obligation of the State or agency thereof to persons with which it has existing contracts or to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

**SECTION 15. Conflict with provisions of this Act.** All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform to this Act. All acts passed during this Regular Session of 1987, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless such acts specifically provide that this Act is being amended.

**SECTION 16.** The office of state planning shall evaluate the various functional plans and determine how these plans can be reconciled with the concept of preparing departmental program plans. The office shall present a report of its findings and recommendations to the legislature twenty days prior to the convening of the regular session of 1989.

**SECTION 17.** Statutory material to be repealed is bracketed. New statutory material is underscored.

**SECTION 18.** This Act shall take effect upon July 1, 1987.

(Approved June 29, 1987.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 337

S.B. NO. 1318

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** The legislature finds that the Hawaii housing authority was established in 1935 as a public housing agency to manage federally-aided low-rent public housing projects, and that since its creation over fifty years ago, the role of the authority has been expanded considerably in housing and housing related activities. Programs dealing with land reform, lease rent renegotiation, development of housing projects, and housing financing (such as the Hula Mae program) were added to the Hawaii housing authority's purview because it seemed at the time to be the most appropriate agency to handle these functions.

The legislature further finds that the governor has proposed to reorganize the structure of state government by transferring the criminal justice

and corrections functions of the department of social services and housing to a newly established department of corrections. This will enable the department of social services and housing, which will be renamed the "department of human services", to focus its attention on human services functions.

The legislature further finds that it would be appropriate at this time to also reorganize the Hawaii housing authority by separating its functions not directly related to human services.

The purpose of this Act is to establish the housing finance and development corporation and to transfer the housing finance, housing development, and residential leasehold functions of the Hawaii housing authority to the new housing finance and development corporation. The corporation is placed within the department of planning and economic development for administrative purposes. The housing management function of the authority, which is currently the only major function which is closely related to other human services functions, will remain with the authority which will continue to be administratively placed within the department of social services and housing or the "department of human services".

SECTION 2. Section 26-18, Hawaii Revised Statutes, is amended to read as follows:

**"§26-18 Department of planning and economic development. (a)** The department of planning and economic development shall be headed by a single executive to be known as the director of planning and economic development.

The department shall undertake statewide planning and economic development activities, undertake energy development and management, provide economic research and analysis, plan for the use of Hawaii's ocean resources, and encourage the development and promotion of industry and international commerce through programs established by law.

(b) The following are placed in the department of planning and economic development for administrative purposes as defined by section 26-35: Aloha Tower [Development Corporation,] development corporation, Hawaii community development authority, land use commission, natural energy laboratory of Hawaii, housing finance and development corporation, and any other boards and commissions as shall be provided by law.

The department of planning and economic development shall be empowered to establish, modify, or abolish statistical boundaries for cities, towns, or villages in the State. The department shall publish annually an up-to-date list of cities, towns<sup>1</sup> and villages for which statistical boundaries have been set."

SECTION 3. Section 36-24, Hawaii Revised Statutes, is amended to read as follows:

**"§36-24 Loans to state and county agencies.** When there are moneys in the general, special, or revolving funds of the State which in the director of finance's judgment are in excess of the amounts necessary for the immediate state requirements, the director may make temporary loans therefrom to the employees retirement system, the board of water supply of the city and county of Honolulu, the [Hawaii housing authority,] housing finance and development corporation, or to any state or county department, board, commission, officer, authority, or agency authorized under the laws of the State to issue bonds, or to the several counties, if in the director's judgment the action will not impede or hamper the necessary financial operations of the State. The loans to any county shall not at any time be more than

\$100,000 over the amount of tax moneys which the director estimates will be paid by the director to the county during the balance of the calendar year, provided that in the case of the city and county of Honolulu the loans may be made up to \$250,000 over the amount of tax moneys which the director estimates will be paid by the director to the city and county during the balance of the calendar year. The loans to other organizations shall not at any time exceed the amount of moneys which the director estimates the organization will be in receipt of, from bond funds or other sources, during the twelve months following the loan. The loans shall be without interest. Loans to counties shall be made only upon the request of the county treasurer approved by the county council. All loans shall be repaid upon the demand of the director. In the absence of any demand, loans to counties shall be repaid before June 30 of the following year, pursuant to the following procedure: from time to time as tax moneys which are payable to the borrowing county are deposited into<sup>1</sup> the treasury, the director shall retain therefrom sufficient moneys to cover the amounts of all loans, and shall reimburse the general, special, or revolving funds therewith.”

SECTION 4. Section 46-15.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any law to the contrary notwithstanding, any county shall have and may exercise the same powers, subject to applicable limitations, as those granted the [Hawaii housing authority] housing finance and development corporation pursuant to chapter [359G] \_\_\_\_\_ insofar as such powers may be reasonably construed to be exercisable by a county for the purpose of developing, constructing, and providing low and moderate income housing; provided that no county shall be empowered to cause the State to issue general obligation bonds to finance a project pursuant to this section; provided further that county projects shall be granted an exemption from general excise or receipts taxes in the same manner as projects of the [Hawaii housing authority,] housing finance and development corporation, pursuant to section [359G-15.] \_\_\_\_\_-205. Such powers shall include the power, subject to applicable limitations, to:

- (1) Develop and construct dwelling units, alone or in partnership with developers;
- (2) Acquire necessary land by lease, purchase, exchange, or eminent domain;
- (3) Provide assistance and aid to a public agency or person in developing and constructing new housing and rehabilitating old housing for the elderly of low and moderate income, other persons of low and moderate income, and persons displaced by any governmental action, by making long-term mortgage or interim construction loans available;
- (4) Contract with any eligible bidders to provide for construction of urgently needed housing for persons of low and moderate income;
- (5) Guarantee the top twenty-five per cent of the principal balance of real property mortgage loans, plus interest thereon, made to qualified borrowers by qualified lenders;
- (6) Enter into mortgage guarantee agreements with appropriate officials of any agency or instrumentality of the United States in order to induce such officials to commit to insure or insure mortgages under the provisions of the National Housing Act, as amended;

ACT 337

- (7) Make a direct loan to any qualified buyer for the downpayment required by a private lender to be made by the borrower as a condition of obtaining a loan from the private lender in the purchase of residential property;
- (8) Provide funds for a share, not to exceed fifty per cent of the principal amount of a loan made to a qualified borrower by a private lender who is unable otherwise to lend the borrower sufficient funds at reasonable rates in the purchase of residential property; and
- (9) Sell or lease completed dwelling units.

For purposes of this section, a limitation is applicable to the extent that it may reasonably be construed to apply to a county."

SECTION 5. Chapter 53, Hawaii Revised Statutes, is amended as follows:

1. By amending section 53-6 to read as follows:

**"§53-6 Initiation and approval of redevelopment plan. (a)** Before adopting a redevelopment plan, the redevelopment agency shall be assured that satisfactory housing facilities are available or that reasonable provisions will be made for the temporary housing of [any] individuals and families displaced by the removal of living facilities from the redevelopment project. In making the determination the agency [shall] may confer with the Hawaii housing authority [respecting the handling of] with respect to the possible placement of displaced families [that would be eligible for occupancy of living facilities] in projects owned and operated by the authority.

**(b)** The agency shall submit the redevelopment plan to the planning commission for study and approval thereof. The planning commission may approve, amend and approve, or disapprove the plan. If the planning commission disapproves the plan or amends the plan and the amendment is not approved by the agency, the agency may submit the plan as disapproved or amended to the council which may nevertheless approve or amend and approve the plan by resolution, but only by the affirmative vote of at least five of its members, after holding a public hearing and subject to the procedure set forth in the next paragraph.

After the planning commission has approved a redevelopment plan, and upon acceptance thereof by the agency if amended, the agency shall submit the plan to the council which shall hold a public hearing thereon, after giving published notice thereof on three separate days, the first publication to be at least ten days before the date of the hearings, and may approve, amend and approve, or disapprove the plan by resolution; provided that the council shall not approve, or amend and approve, the plan unless it finds that the redevelopment project area is a blighted area within the urban limits of the county; and provided further that any amendment made by the council must be accepted by the agency before final approval by the council. If the council approves a redevelopment plan, published notice of the approval shall be given by at least three publications and further proceedings with respect to the redevelopment project covered by the plan shall be stayed for a period of thirty days after the first publication of the notice. Actions, suits, or proceedings to contest the validity of the proceedings prescribed by the foregoing provisions of this chapter or of the redevelopment plan shall be barred upon the expiration of the period of thirty days, and no action thereafter commenced shall raise any question concerning the validity of the proceedings provided by the foregoing provisions of this chapter or of the redevelopment plan, and in all actions, suits, or proceedings commenced



after the expiration of the period of thirty days, except as to matters affecting jurisdiction, the validity of the proceedings prescribed by the foregoing provisions of this chapter and of the plan shall be conclusively presumed. Upon the expiration of the thirty-day period, the agency may further proceed with the redevelopment project or projects covered by the redevelopment plan. Upon acquisition of the lands in the redevelopment project by the agency, the lands shall automatically be rezoned as to land use in conformance with provisions of the approved redevelopment plan.

(c) Hearings and trial upon any issue raised in any action, suit, or proceeding in any court involving the construction, interpretation, or validity of this chapter, or involving the legality or validity of any action taken or proposed to be taken under or pursuant to this chapter, whether by way of injunction, suit for declaratory judgment, submission on agreed statement of facts, or otherwise, shall be given precedence in both the lower courts and the supreme court, and an interlocutory appeal to the supreme court shall lie from any decision of any lower court holding valid or invalid any provision of this chapter, or any contract made or proposed, or other action taken or proposed to be taken, under or pursuant to this chapter.

(d) Whenever the agency determines that a proposed redevelopment project or an auxiliary redevelopment project initiated pursuant to this chapter may be undertaken by the owners of project lands therein or by developers of the owners as effectively, expeditiously, and economically as if undertaken as a public undertaking by the agency itself, then the redevelopment plan for the project approved and adopted pursuant to this section shall include a provision for the execution of the project by an alternative method of private development thereof on the basis of an agreement between the agency and the owners or developers and imposing such requirements, restrictions, and sanctions as the agency may deem necessary to effectuate the basic purposes of this chapter and to assure the successful completion of the project by private development.

If at any time after the initial adoption of the redevelopment plan, the agency determines that a change in the plan is in the public interest and in furtherance of the purpose of redevelopment, the plan or any part thereof may be amended by following the same procedure as set forth above for the adoption of the original plan."

2. By amending section 53-17 to read as follows:

**"§53-17 Bonds of agency to be legal investments.** Bonds issued by a redevelopment agency in connection with one or more redevelopment plans or redevelopment projects pursuant to this part shall be legal investments and security for public deposits to the same extent and for the same public officers and bodies, political subdivisions, persons, companies, corporations, associations, banks, institutions, and fiduciaries as bonds or obligations issued by the [Hawaii housing authority] housing finance and development corporation under chapter [356] \_\_\_\_\_ in connection with slum clearance and housing projects."

3. By amending subsection 53-22(e) to read as follows:

"(e) The governor shall submit to the legislature at each regular session in an odd-numbered year, estimates of the amount of additional appropriation necessary in the governor's judgment for [the] use [of] by the [Hawaii housing authority for] housing finance and development corporation in the succeeding fiscal biennium, in providing living facilities necessary to care for families displaced or to be displaced by redevelopment projects [and which are eligible to become tenants in public housing projects], so that

ACT 337

the legislature may make appropriations therefor if it deems the action advisable.”

SECTION 6. Section 103-3, Hawaii Revised Statutes, is amended to read as follows:

“§103-3 **Employment of attorneys.** No department of the State, other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the [Hawaii housing authority] housing finance and development corporation or the public utilities commission;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund, the contractors license board in any action involving the contractors recovery fund, and the trustees in any action involving the travel agency revolving<sup>1</sup> fund;
- (6) To the Hawaii criminal justice commission;
- (7) To grand jury counsel;
- (8) To the office of Hawaiian affairs;
- (9) To the department of commerce and consumer affairs; provided that such attorney shall be responsible for the prosecution of consumer complaints;
- (10) In the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines such representation or counsel, or approves such department’s expenditures; provided the governor thereupon waives the provision of this section.

For the purpose of this section the term “department of the State” means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed by the Hawaii criminal justice commission or as a grand jury counsel, or the department of commerce and consumer affairs in prosecution of consumer complaints, shall become a deputy attorney general.”

SECTION 7. Chapter 171, Hawaii Revised Statutes, is amended as follows:

1. By amending section 171-2 to read as follows:

“§171-2 **Definition of public lands.** “Public lands” means all lands or interest therein in the State classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; including submerged lands, and lands beneath tidal waters which are suitable for reclamation, together with reclaimed lands which have been given the status of public lands under this chapter, except:

- (1) Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended;

- (2) Lands set aside pursuant to law for the use of the United States;
- (3) Lands being used for roads and streets;
- (4) Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the State Constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws;
- (5) Lands to which the University of Hawaii holds title;
- (6) Lands to which the Hawaii housing authority in its corporate capacity holds title; [and]
- (7) Lands to which the Hawaii community development authority in its corporate capacity holds title[.]; and
- (8) Lands to which the housing finance and development corporation in its corporate capacity holds title."

2. By amending section 171-50.2 to read as follows:

"**[§171-50.2]** Exchanges for conversion of leasehold lands to fee simple ownership. The board may exchange public lands for private lands to be condemned or involuntarily sold pursuant to chapter 516. Such exchange shall be requested by the executive director of the [Hawaii housing authority,] housing finance and development corporation, and shall be effected in conformity with section 171-50; provided that such exchange shall be subject to legislative disapproval; provided further that the private lands conveyed to the State shall be disposed<sup>1</sup> pursuant to chapter 516; and provided further that lands exchanged need not be of like-kind or comparable use; provided further that no lands classified as conservation shall be exchanged for private lands."

SECTION 8. Section 206E-15<sup>1</sup> is amended to read as follows:

"**§206E-15 Residential projects; cooperative agreements.** If the authority deems it desirable to develop a residential project, it may enter into an agreement with qualified persons to construct, maintain, operate, or otherwise dispose of the residential project. Sale, lease, or rental of dwelling units in the project shall be as provided by the rules established by the authority. The authority may enter into cooperative agreements with the Hawaii housing authority and the housing finance and development corporation for the financing, development, construction, sale, lease, or rental of dwelling units and projects."

SECTION 9. Chapter 209, Hawaii Revised Statutes, is amended as follows:

1. By amending section 209-16 to read as follows:

"**§209-16 Housing relief.** (a) Whenever the governor pursuant to section 209-2 declares a state disaster, the governor may invoke this part. After the declaration by the governor and pursuant to the governor's proclamation, the [Hawaii housing authority] housing finance and development corporation shall construct [public] housing units on public lands which may be set aside by the governor, using for the purpose the funds available or made available to the authority.

(b) Housing so constructed shall be of standard quality and shall conform substantially to the specifications used on other projects controlled by the Hawaii housing authority.

(c) Once the housing finance and development corporation has completed the construction of such housing units, the units shall be turned over to the Hawaii housing authority for operational purposes.”

2. By amending section 209-17 to read as follows:

“§209-17 Use of funds in relation to federal projects. The funds allocated to this part shall be expended by the [Hawaii housing authority for the designated purpose under chapters 356, or 359,] housing finance and development corporation only upon the finding that the [public] housing project found necessary does not qualify for federal aid or participation.”

SECTION 10. Section 226-53, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established a policy council whose membership shall include the following:

- (1) The planning director from each county.
- (2) Nine public members, being four from the city and county of Honolulu, one from the county of Kauai, and two from each of the counties of Maui and Hawaii, provided that in the case of the county of Maui, one such public member shall be from Molokai or Lanai and, in the case of the county of Hawaii, one public member shall be from west Hawaii and one from east Hawaii, appointed by the governor from a list of public persons from each county which shall through its mayor or council, submit no less than three names for each appointive public member to which the county is entitled. The governor shall request lists of public persons from the respective mayors for appointment to the policy council. Within thirty days following the date of the governor’s request, the mayor of the respective county shall submit the list to the council of the respective county for advice and consent. Within sixty days of the date of the governor’s request, the mayor shall submit the list of public persons, with the advice and consent of the council of the respective county, to the governor for appointment to the policy council. If the mayor fails to submit a list to the council within thirty days of the date of the governor’s request, the council shall submit a list to the governor within sixty days of the governor’s request. If a list of public persons is not submitted by either the mayor or the council to the governor within sixty days following the date of the request for such a list, the governor shall appoint the public members from that county in accordance with the applicable geographic representation set forth above without nominations from that mayor.
- (3) The directors or chairmen from the departments of agriculture, budget and finance, planning and economic development, land and natural resources, health, social services and housing, transportation, and labor and industrial relations; from the office of environmental quality control; the superintendent of education; the president of the University of Hawaii; the executive director of the [Hawaii housing authority;] housing finance and development corporation; and the executive officer of the land use commission.

The director of [the department of] planning and economic development shall serve as chairman of the council.

The terms of the nine members from the public shall be for four years; provided that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year. Each such term shall commence on January 1 and expire on December 31; provided that the governor may establish the commencing and expiration dates of the terms of those initially appointed. No member from the public shall be appointed consecutively for more than two terms; provided that membership shall not exceed eight consecutive years. No member from the public shall serve on any other public board or commission. The governor may remove or suspend for cause any member of the council after due notice and public hearing.

Expenses incurred by a state governmental member participating in policy council deliberations shall be borne by the member's respective governmental agency. Travel expenses incurred by planning directors participating in policy council deliberations shall be reimbursed by the department of planning and economic development. A public member shall receive no compensation for the member's services, but each shall be reimbursed by the department of planning and economic development for necessary expenses incurred in the performance of the member's duties."

SECTION 11. Section 237-29, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) All claims for exemption under this section shall be certified first by the [Hawaii housing authority] housing finance and development corporation and forwarded to the director of taxation, except that any project previously granted an exemption need not reapply for an exemption until there is a change in use or ownership of the project."

SECTION 12. Chapter 356, Hawaii Revised Statutes, is amended as follows:

1. By amending section 356-2 to read as follows:

**"§356-2 Definitions.** The following terms, wherever used or referred to in this chapter shall have the following respective meanings, unless a different meaning clearly appears from the context:

"Authority" means the Hawaii housing authority created by this chapter.

"Bonds" means any bonds, interim certificates, notes, debentures, or other evidences of indebtedness of the authority issued pursuant to this chapter.

"Community facilities" includes real and personal property, and buildings, equipment, lands, and grounds for recreational or social assemblies, for educational, health, or welfare purposes and necessary or convenient utilities, when designed primarily for the benefit and use of the authority or the occupants of the dwelling accommodations.

"Contract" means any agreement of the authority with an obligee or a trustee for such obligee whether contained in a resolution, trust indenture, mortgage, lease, bond, or other instrument.

"Federal government" includes the United States and any agency, instrumentality, corporate or otherwise, of the United States.

"Government" includes the State and the United States and any political subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

"Housing project" or "project" includes all real and personal property, buildings and improvements, [stores, offices,] commercial spaces, lands

## ACT 337

for farming and gardening, and community facilities acquired or constructed or to be acquired or constructed pursuant to a single plan or undertaking:

- (1) To demolish, clear, remove, alter, or repair unsanitary or unsafe housing, or
- (2) To provide safe and sanitary dwelling accommodations, or
- (3) To do both.

The term "housing project" or "project" may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith; and the term includes all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

"Obligee of the authority" or "obligee" includes any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a housing project, or any assignee or assignees of the lessor's interest or any part thereof, and the United States, when it is a party to any contract with the authority.

"Real property" includes lands, land under water, structures, and any and all easements, franchises, and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage, or otherwise."

2. By repealing section 356-4.
3. By repealing section 356-6.
4. By repealing section 356-7.
5. By amending section 356-8 to read as follows:

**"§356-8 Housing counseling.** The authority shall be responsible for providing:

- (1) [Counseling to prospective homeowners seeking to purchase a home, and to homeowners seeking to rehabilitate or renovate existing homes;
- (2)] Listing and referral services to tenants seeking to rent homes; and
- (2) Counseling to tenants on such matters as financial management and budgeting, basic housekeeping, communicating effectively and getting along with others, and such other matters as may be desirable or necessary.
- [(3) Assistance to any person or government agency regarding the nature and availability of federal assistance for housing development and community development or redevelopment;
- (4) Counseling and guidance services to aid any person or government agency in securing the financial aid or cooperation of the federal government in undertaking, constructing, maintaining, operating, or financing of any housing designed for the elderly, persons displaced by governmental action, university and college students and faculty, and any other persons; and
- (5) Assistance to a county agency upon request from the agency in the development of programs to correct or eliminate blight and deterioration, and to effect community development.]"

6. By amending subsection 356-29(b) to read as follows:

"(b) The bonds may be sold [at not less than par] at the discretion of the authority, either by public sale held after notice published once at least five days prior to the sale in a newspaper having a general circulation in the State[; provided that the bonds may be sold at not less than par to the federal

government at private sale without any public advertisement.] or by negotiated sale without any public advertisement, in each case for a price as may be determined by the authority to be in the best interest of the State."

7. By repealing section 356-33.5.

8. By repealing parts II and III.

SECTION 13. Chapter 359, Hawaii Revised Statutes, is amended by repealing part VIII.

SECTION 14. Chapter 359G, Hawaii Revised Statutes, is repealed.

SECTION 15. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER  
HOUSING FINANCE AND DEVELOPMENT  
CORPORATION  
PART I. GENERAL PROVISIONS**

§ -1 **Findings and declaration of necessity.** The legislature of the State of Hawaii has determined that there exists in the State a critical shortage of safe and sanitary housing units which are affordable to lower income residents of the State and that consequently many persons are forced to occupy overcrowded, unsafe, or unsanitary dwelling accommodations, or become homeless. The legislature further determines that the population increase, the obsolescence of existing housing and the rate at which housing units are presently being built will combine to intensify the present shortage.

The legislature finds that these conditions cause an increase in discontent, despair, and crime and constitute a menace to the health, safety, morals, and welfare of the inhabitants of the State and impair economic values; that these conditions cannot be remedied by the ordinary operations of private enterprises; that the clearance, replanning, reconstruction, master planning, development, and construction of units, and the providing of safe and sanitary dwelling accommodations are public uses and purposes for which public money may be spent and private property acquired; that it is in the public interest that work on such projects be instituted as soon as possible to relieve the burden of residents who are in need of shelter; and that the necessity for this chapter is declared as a matter of legislative determination.

The legislature has further determined and hereby determines that shortage of housing, or inadequate housing, for persons of whatever level of income has an effect upon the availability and quality of housing for persons of other levels of income; that a shortage of housing leads to impairment of existing housing through use of such existing housing for occupancy in excess of that for which it is designed; and that a shortage of housing contributes to the occurrence of slums, slum conditions and unsanitary and unsafe housing and to the recurrence of slums, slum conditions and unsanitary and unsafe housing in areas in which slums, slum conditions and unsanitary and unsafe housing have previously been eliminated.

The legislature has also determined that decent shelter and the responsibility of home ownership contribute to the pride and dignity of an individual and makes that individual a greater asset to the community, and that the lack of decent shelter and the responsibility of home ownership contribute to harmful frustration in our community. The home is the basic source of shelter and security in society, the center of our society which provides the basis for the development of our future citizens. Frustration in

the inability to obtain the basic necessity of decent shelter and to provide a decent home for one's family, provokes an unrest in our community that is harmful to the overall fiber of our society.

Studies have pointed out that the causes for the high cost of housing are multiple. They include the cost and availability of land, the cost of development, the cost and availability of financing, the cost added by government regulation, the cost and availability of labor and materials, and the inflationary state of the economy that makes high cost housing more profitable to produce and more attractive to "risk" capital. In the most elemental way the housing shortage is caused by conflicting priorities in our pluralistic society. Additionally, the legislature is aware that the housing market is a total market and that neglecting the interests of renters or higher income potential homeowners would not be proper.

When conflicting priorities, otherwise wholesome in a great state, combine to frustrate one of the basic needs of that state so as to endanger its general health and welfare, the elected representatives of the people of such state have the obligation to provide to the best of their ability the means whereby these priorities can be resolved.

The legislature of the State has determined that the problem of providing reasonably priced housing in Hawaii is so complex that existing institutions cannot solve it without a comprehensive overview and direction. The legislature has determined that the problem must be solved for the general well-being of the State and that the legislature has the duty to provide the overview and the direction.

**§ -2 Definitions.** The following terms, wherever used or referred to in this chapter, shall have the following respective meanings unless a different meaning clearly appears from the context:

"Bonds" means any bonds, interim certificates, notes, debentures, or other evidences of indebtedness of the corporation issued pursuant to this chapter.

"Community facilities" includes real and personal property, and buildings, equipment, lands, and grounds for recreational or social assemblies, for educational, health, or welfare purposes, and necessary or convenient utilities, when designed primarily for the benefit and use of the corporation or the occupants of the dwelling accommodations.

"Contract" means any agreement of the corporation with an obligee or a trustee for such obligee whether contained in a resolution, trust, indenture, mortgage, lease, bond, or other instrument.

"Corporation" means the housing finance and development corporation created under this chapter.

"Develop" or "development" means the planning, financing, acquisition of real and personal property, demolition of existing structures, clearance of real property, construction, reconstruction, alteration, or repairing of approaches, streets, sidewalks, utilities, and services, or other site improvements, or construction, reconstruction, repair, remodeling, extension, equipment, or furnishing of buildings or other structures, or any combination of the foregoing, of any housing project. It also includes any and all undertakings necessary therefor, and the acquisition of any housing, in whole or in part.

"Dwelling", "dwelling unit", or "unit" means any structure or room, for sale, lease, or rent, which provides shelter.

"Eligible bidder" means a person, partnership, firm, or corporation determined by the corporation:



- (1) To be qualified by experience and financial responsibility to construct housing of the type proposed to be contracted; and
- (2) To have submitted the lowest acceptable bid.

“Eligible developer” means any person, partnership, cooperative (including limited equity housing cooperatives as defined in chapter 421G, firm, nonprofit or profit corporation, or public agency determined by the corporation:

- (1) To be qualified by experience and financial responsibility and support to construct housing of the type described and of the magnitude encompassed by the given project;
- (2) To have submitted plans for a project adequately meeting the objectives of this chapter, the maintenance of aesthetic values in the locale of the project, and the requirements of all applicable environmental statutes, and rules; and
- (3) To meet all other requisites the corporation deems to be just and reasonable, and all requirements stipulated in this chapter.

“Federal government” includes the United States and any agency, instrumentality, corporate or otherwise, of the United States.

“Government” includes the State and the United States and any political subdivision, agency, or instrumentality, corporate or otherwise, or either of them.

“Housing” or “housing project” includes all real and personal property, buildings and improvements, commercial space, lands for farming and gardening, community facilities acquired or constructed or to be acquired or constructed, and all tangible or intangible assets held or used in connection with the housing project.

“Land” or “property” includes vacant land or land with site improvements whether partially or entirely finished in accordance with governmental subdivision standards, or with complete dwellings.

“Mortgage holder” includes the United States Department of Housing and Urban Development, Federal Housing Administration, the United States Department of Agriculture, Farmers Home Administration, or other federal or state agency engaged in housing activity, Administrator of Veterans Affairs, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, private mortgage lender, private mortgage insurer, and their successors, grantees, and assigns.

“Mortgage lender” means any bank or trust company, savings bank, national banking association, savings and loan association maintaining an office in the State, any insurance company authorized to transact business in the State, or any mortgagee approved by the Federal Housing Administration and maintaining an office in the State.

“Obligee of the corporation” or “obligee” includes any bondholder, trustee or trustees for any bondholders, any lessor demising property to the corporation used in connection with a housing project, or any assignee or assignees of the lessor’s interest or any part thereof, and the United States, when it is a party to any contract with the corporation.

“Purchaser’s equity” means the difference between the original cost of the dwelling unit to the purchaser, and the principal amount of any mortgages, liens, or notes outstanding.

“Qualified resident” means a person who:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is at least eighteen years of age;

- (3) Is a bona fide resident of the State and has a bona fide intent to reside in the dwelling unit purchased or rented under this chapter;
- (4) In the case of purchase of a dwelling unit in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the purchase; and
- (5) Is not found by the corporation to be within one of the following classes:
  - (A) A person who oneself or whose husband or wife or both (when husband and wife are living together) owns or own in fee simple or leasehold any lands suitable for dwelling purposes; or
  - (B) A person who oneself or whose husband or wife (when husband and wife are living together) has pending another unrefused application to purchase a dwelling unit under this chapter from the corporation.

“Real property” includes lands, land under water, structures, and any and all easements, franchises, and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage, and otherwise.

“Short term project notes” means evidences of indebtedness issued by the State for specified housing projects and secured by such projects the terms of which call for complete repayment by the State of the face amount in not less than two nor more than ten years.

**§ -3 Housing finance and development corporation; establishment; board; staff.** (a) There is established the housing finance and development corporation to be placed within the department of planning and economic development for administrative purposes. The corporation shall be a public body and a body corporate and politic with perpetual existence.

(b) The corporation shall be headed by a board of directors which consists of eight members, of whom six shall be public members appointed by the governor as provided in section 26-34. Two public members shall be appointed at large; the remaining public members shall be appointed from each of the counties of Honolulu, Hawaii, Maui, and Kauai. The director of planning and economic development and the special assistant for housing shall be ex officio voting members.

(c) The governor shall select a chairperson and vice-chairperson from among the members. The director of planning and economic development shall not be ex officio chairperson of the board.

(d) Four members shall constitute a quorum, whose affirmative vote shall be necessary for all actions by the corporation. The members shall receive no compensation for services, but shall be entitled to the necessary expenses, including traveling expenses, incurred in the performance of their duties.

(e) The corporation shall employ, not subject to chapters 76 and 77 and section 26-35(4), an executive director. Effective July 1, 1988, the salary of the executive director shall be \$61,560 a year. The corporation may employ, subject to chapters 76 and 77, technical experts and officers, agents, and employees, permanent and temporary, as required. The corporation may also employ persons on a contractual basis not subject to chapters 76, 77, and 78 when in the determination of the corporation the services to be performed are unique and essential to the execution of the functions of the corporation; provided that no individual contract shall be for a period longer than two years per term. The corporation may call upon the attorney

general for such legal services as it may require, or it may employ its own counsel and legal staff. The corporation may delegate to one or more of its agents or employees such powers and duties as it deems proper.

§ -4 **Special assistant for housing.** There shall be in the office of the governor a special assistant for housing to be appointed by the governor without regard to chapters 76, 77, and 78.

§ -5 **General powers.** (a) The corporation may: sue and be sued; have a seal and alter the same at pleasure; make and execute contracts and other instruments necessary or convenient to the exercise of its powers; make, amend, and repeal bylaws and rules in accordance with chapter 91 for its organization, internal management, and to carry into effect its purposes, powers, and programs.

(b) In addition to other powers conferred upon it, the corporation may do all things necessary and convenient to carry out the powers expressly given in this chapter.

§ -10 **Housing information system.** (a) The corporation, with the assistance of other agencies of the State and counties with related responsibilities, shall develop and maintain a housing information system. The system shall make available current information as to housing conditions, needs, supply, characteristics, developments, trends, federal housing programs, and housing laws, ordinances, rules, and regulations.

(b) In establishing and maintaining the information system, the corporation shall assemble necessary and appropriate information, including but not limited to statistics and research developed by agencies of the United States, the State, the counties, private research organizations, nonprofit community groups, trade associations, including those of the construction and real estate industries, departments, and individuals at the University of Hawaii.

(c) The information system may be used by housing researchers, planners, administrators, and developers, and shall be coordinated with other housing research efforts. The corporation shall maintain a current supply of information, including means to gather new information through surveys, contracted research and investigations.

§ -11 **Housing research.** (a) The corporation may study the plans of any government in relation to the problem of clearing, replanning, or reconstruction of an area in which unsafe, or unsanitary dwelling or housing conditions exist.

(b) The corporation may purchase materials for the development of land and the construction of dwelling units in the manner it shall conclude to be most conducive to lower costs including purchase from other states or from foreign countries for drop shipment in the State or on cost-plus contracts for such materials with persons or firms doing business in the State, or otherwise. The corporation may expend not more than \$100,000 a year for the purpose of this subsection.

(c) The corporation may conduct, or cause to be conducted, research on housing needs, materials, design, or technology, and for applying the findings of such investigation to housing projects, including the following:

- (1) Sociocultural investigation of housing and community utilization, preferences, or needs of residents within the housing need classification of the housing functional plan;
- (2) Development of technology for the application of innovative building systems or materials, to provide energy or resource

conservation or cost savings in the construction or operation of a housing project;

- (3) Investigation of the applicability of locally produced building materials and systems to dwelling unit construction;
- (4) Investigation of new forms of project construction, maintenance, operation, financing, or ownership, involving tenants, homeowners, financing agencies, and others; or
- (5) Other necessary or appropriate research which may lower the long-term costs of housing, conserve resources, or create communities best suited to the needs of residents.

The corporation may expend not more than \$100,000 a year for the development of innovative techniques and research.

(d) In the development and construction of a housing project, the corporation may provide for an on-the-job training program or such other projects as it may deem justifiable including innovative projects for the purpose of developing a larger qualified work force in the State. For this purpose, the corporation may expend such sums as it deems appropriate but not to exceed \$100,000 a year.

§ -12 **Housing counseling.** The corporation shall be responsible for providing:

- (1) Counseling to prospective homeowners on the rudiments of owning a home;
- (2) Assistance to any person or government agency regarding the nature and availability of federal assistance for housing development and community development or redevelopment;
- (3) Counseling and guidance services to aid any person or government agency in securing the financial aid or cooperation of the federal government in undertaking, constructing, maintaining, operating, or financing of any housing designated for the elderly, persons displaced by governmental action, university and college students and faculty, and any other persons; and
- (4) Assistance to a county agency upon request from the agency in the development of programs to correct or eliminate blight and deterioration, and to effect community development.

§ -20 **Acquisition, use, disposition of property.** (a) The corporation may acquire any real or personal property or interest therein by purchase, exchange, gift, grant, lease, or other means from any person or government for the purpose of providing housing. Exchange of real property shall be in accordance with section 171-50.

(b) The corporation may own or hold real property. All real property owned or held by the corporation shall be exempt from mechanics or materialmen's liens and also from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the corporation be a charge or lien upon its real property; provided that this subsection shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of the corporation or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the corporation on its rents, fees, or revenues. The corporation and its property shall be exempt from all taxes and assessments.

(c) The corporation may sell, exchange, transfer, assign, or pledge any property, real or personal, or any interest therein to any person or government.

(d) The corporation may insure or provide for the insurance of its property or operations against such risks as it deems advisable.

**§ -21 Cooperative agreements with other governmental agencies. (a)**

The corporation may:

- (1) Obtain the aid and cooperation of governments in the planning, construction, and operation of housing projects and enter into such agreements and arrangements as it deems advisable to obtain such aid and cooperation;
  - (2) Arrange or enter into agreements with any government for the acquisition by the government of property, options, or property rights or for the furnishing, installing, opening, or closing of streets, roads, alleys, sidewalks, or other places, or for the furnishing of property, services, parks, sewage, water, and other facilities in connection with housing projects, or for the changing of the map of a political subdivision or the planning, replanning, zoning, or rezoning of any part of a political subdivision;
  - (3) Procure insurance or guarantees from any government for the payment of any debts or parts thereof incurred by the corporation, including the power to pay premiums on any such insurance; and
  - (4) Agree to make payments to the state or county government, if the government is authorized to accept, as the corporation deems consistent with the maintenance of the character of housing projects or the purposes of this chapter.
- (b) For the purpose of aiding and cooperating in the planning, construction, and operation of housing projects located within their respective territorial boundaries, the state or county government, upon such terms, with or without consideration, as it determines, may:
- (1) Dedicate, grant, sell, convey, or lease any of its property, or grant easements, licenses, or any other rights or privileges therein to the corporation or to the federal government;
  - (2) To the extent that it is within the scope of each of their respective functions:
    - (A) Cause the services customarily provided by each of them to be rendered for the benefit of housing projects and the occupants thereof;
    - (B) Open, close, pave, install, or change the grade of streets, roads, roadways, alleys, sidewalks, or other such facilities; and
    - (C) Change the map of a political subdivision or plan, replan, zone, or rezone any part of a political subdivision;
  - (3) Enter into agreements with the corporation with respect to the exercise of their powers relating to the repair, closing, or demolition of unsafe, unsanitary, or unfit dwellings;
  - (4) Employ, notwithstanding any other law as to what constitutes legal investments, any available funds belonging to them or within their control, including funds derived from the sale or furnishing of property or facilities to the authority, in the purchase of the bonds or other obligations of the corporation to the extent provided by section -56; and exercise all the rights of any holder of such bonds or other obligations;
  - (5) Do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, and construction of such housing projects; and
  - (6) Enter into contracts with the corporation or the federal government for any period agreeing to exercise any of the powers

conferred hereby or to take any other action in aid of such housing projects.

In connection with the exercise of this power, any political subdivision may incur the entire expense of any such public improvements located within its territorial boundaries without assessment against abutting property owners.

For the purpose of aiding and cooperating in the planning, construction, and operation of housing projects, the department of land and natural resources, the Hawaiian homes commission, the Hawaii housing authority, and any other agency of the State having power to manage or dispose of its public lands, with the approval of the governor and with or without consideration, may grant, sell, convey, or lease for any period, any parts of such public lands, without limit as to area, to the corporation or to the federal government.

Any law or statute to the contrary notwithstanding, any gift, grant, sale, conveyance, lease, or agreement provided for in this section may be made by the state or county government without appraisal, public notice, advertisement, or public bidding.

If at any time title to, or possession of, any housing project is held by any government authorized by law to engage in the development or administration of housing projects, any agreement made under this chapter relating to such project shall inure to the benefit of and may be enforced by that government.

Insofar as this subsection is inconsistent with the provisions of any other law, this subsection shall be controlling.

(c) The government of any county in which a housing project is located or is about to be located may make donations or advances to the authority in such sums as the county in its discretion may determine. The advances or donations shall be made for the purpose of aiding or cooperating in the construction and operation of the housing project. The corporation, when it has money available therefor, shall reimburse the county for all advances made by way of a loan to it.

§ -22 Investigatory powers. (a) The corporation may:

- (1) Investigate living, dwelling, and housing conditions and the means and methods of improving such conditions;
- (2) Enter upon any building or property in order to conduct investigations or to make surveys or soundings;
- (3) Conduct examinations and investigations and hear testimony and take proof under oath at public or private hearings on any matter material for its information;
- (4) Issue subpoenas requiring the attendance of witnesses or the production of books and papers, and order the examination of witnesses who are unable to attend before the corporation, are excused from attendance, or by leave of courts as provided by chapter 624, are out of the State; and
- (5) Make available to any government agency charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within its territorial limits, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety, or welfare.

(b) Investigations or examinations may be conducted by the corporation or by a committee appointed by it, consisting of one or more members,

or by counsel, by an officer or employee specially authorized by the corporation to conduct it. Any person designated by the corporation to conduct an investigation or examination shall have power to administer oaths, take affidavits, and issue subpoenas or orders for the taking of depositions.

§ -23 **Agents, including corporations.** The corporation may exercise any or all of the powers conferred upon it, either generally or with respect to any specific housing project through an agent which it may designate, including any corporation which is formed under the laws of this State, and for such purposes the corporation may cause one or more corporations to be formed under the laws of this State or may acquire the capital stock of any corporation. Any corporate agent, all of the stock of which shall be owned by the corporation or its nominee, to the extent permitted by law, may exercise any of the powers conferred upon the corporation by this chapter.

§ -30 **Development of property.** (a) The corporation, in its own behalf or on behalf of any government, may:

- (1) Clear, improve, and rehabilitate property; and
- (2) Plan, develop, construct, and finance housing.

(b) The corporation may develop state lands but not federal lands, state monuments or historical sites or parks in an agricultural district subject to the prior approval of the land use commission when developing lands greater than fifteen acres in size, and in a conservation district subject to the prior approval of the board of land and natural resources. When the corporation proposes to develop public land, it shall file with the department of land and natural resources a petition setting forth such purpose. The petition shall be conclusive proof that the intended use is a superior public use to that which the land has been appropriated.

(c) The corporation shall not develop any public land where the development may endanger the receipt of any federal grant, impair the eligibility of any public body for a federal grant, prevent the participation of the federal government in any government program, or impair any covenant between the government and the holder of any bond issued by the government.

(d) The corporation may contract or sponsor with any county, housing authority, or person, subject to the availability of funds, an experimental or demonstration project for housing designed to meet the needs of the elderly, handicapped, displaced or homeless persons, low and moderate income persons, employees, teachers, or other government workers, or university and college students and faculty.

§ -31 **Eminent domain, exchange or use of public property.** (a) The corporation may acquire any real property, including fixtures and improvements, or interest therein, through voluntary negotiation; through exchange of land in accordance with section 171-50, provided that the public land to be exchanged need not be of like use to that of the private land; or by the exercise of the power of eminent domain which it deems necessary by the adoption of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The corporation shall exercise the power of eminent domain granted by this section in the same manner and procedure as is provided by chapter 101, and otherwise in accordance with all applicable provisions of the general laws of the State.

The corporation may acquire by the exercise of the power of eminent domain property already devoted to a public use; provided that no property belonging to any government may be acquired without its consent; and

provided further that no property belonging to a public utility corporation may be acquired without the approval of the public utilities commission.

(b) The federal government may acquire by eminent domain any real property which it deems necessary or convenient for a housing project to be constructed, operated, or aided by the federal government. The power of eminent domain may be exercised in conformity with chapter 101. For the purposes of this subsection, federal government includes any corporation borrowing money or receiving other financial assistance from the federal government for the purposes of financing the construction of any housing project.

- § -32 **Contracts with federal government.** (a) The corporation may:
- (1) Borrow money or accept grants from the federal government for any housing project which the authority is authorized to undertake;
  - (2) Take over any land acquired by the federal government for the construction of a housing project;
  - (3) Procure insurance or guarantees from the federal government of the payment of any debts or parts thereof secured by mortgages made or held by the corporation on any property included in any housing project; and
  - (4) Comply with any conditions required by the federal government in any contract for financial assistance.

(b) It is the purpose and intent of this chapter to authorize the corporation to do any and all things necessary to secure the financial aid and the cooperation of the federal government in the undertaking, construction, maintenance, and operation of any housing project which the corporation is empowered to undertake.

§ -33 **Public works contracts.** The corporation may make, execute, and carry out contracts for, or in connection with, any housing project in the manner provided in sections 103-26 to 103-38 and 103-53; and, with regard to such contracts, the term "officers", as used in sections 103-26 to 103-38, shall mean the authority of such officer authorized by the corporation to act as its contracting officer. Unless made and executed in the name of the State, each contract made and executed as authorized in this section shall state therein that it is so made and executed.

§ -34 **Performance bond, procedure.** Whenever the housing finance and development corporation makes or enters into any contract under, or in the manner authorized in, section -33, it shall require a performance bond which shall be conditioned, executed, and delivered as provided in section 507-17. Whenever a performance bond is so required, section 507-17 shall apply with equal force and effect to all such contracts so entered into by or with the corporation, in which case the word "State" as used in section 507-17, shall be construed to mean and include the corporation and the references to the officer or officers of the State in the section shall be construed to also mean and include the corporation.

§ -35 **Remedies of an obligee: mandamus; injunction; possessory action; receiver; accounting; etc.** An obligee of the corporation shall have the right in addition to all other rights which may be conferred on the obligee subject only to any contractual restrictions binding upon the obligee, and subject to the prior and superior rights of others:

- (1) By mandamus, suit, action, or proceeding in law or equity to compel the corporation and the members, officers, agents, or employees thereof to perform each and every item, provision,



and covenant contained in any contract of the corporation, and to require the carrying out of any or all covenants and agreements of the corporation and the fulfillment of all duties imposed upon the corporation by this chapter;

- (2) By suit, action, or proceeding in equity to enjoin any acts or things which may be unlawful, or the violation of any of the rights of the obligee of the corporation;
- (3) By suit, action, or proceeding in any court of competent jurisdiction to cause possession of any housing project or any part thereof to be surrendered to any obligee having the right to such possession pursuant to any contract of the corporation;
- (4) By suit, action, or proceeding in any court of competent jurisdiction, upon the happening of an event of default (as defined in a contract of the corporation); and
- (5) By suit, action, or proceeding in any court of competent jurisdiction to require the corporation and the members thereof to account as if it and they were the trustees of an express trust.

§ -36 **Subordination of mortgage to agreement with government.** The corporation may agree in any mortgage made by it that the mortgage shall be subordinate to a contract for the supervision by a government of the operation and maintenance of the mortgaged property and the construction of improvements thereon. In such event, any purchaser or purchasers at a sale of the property of the corporation pursuant to a foreclosure of the mortgage or any other remedy in connection therewith shall obtain title subject to the contract.

§ -40 **Duty to make reports.** The housing finance and development corporation shall at least once a year file with the governor a report of its activities for the preceding year. The corporation shall report to the state comptroller on moneys deposited in depositories other than the state treasury under section 40-81, and rules adopted thereunder.

## PART II. FINANCING

### A. General Provisions

§ -50 **Bonds; authorization.** (a) The corporation, with the approval of the governor, may issue from time to time bonds (including refunding bonds for the purpose of paying or retiring or providing for the retirement of bonds previously issued by the corporation) in amounts not exceeding the total amount of bonds authorized to be issued by the legislature for any of its corporate purposes.

(b) All bonds shall be issued pursuant to part III of chapter 39, except as provided in this part.

(c) The bonds shall be issued in the name of the corporation, and not in the name of the State. The final maturity date of the revenue bonds may be any date not exceeding sixty years from the date of issuance.

(d) The corporation may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable:

- (1) Exclusively from the income and revenues of the housing project financed with the proceeds of the bonds, or with the proceeds together with a grant from the federal government in aid of the project;
- (2) Exclusively from the income and revenues of certain designated housing projects whether or not they were financed in whole or in part with the proceeds of the bonds; or
- (3) From its revenues generally.

(e) Any of the bonds may be additionally secured by a pledge of any revenues or a mortgage of any housing project, or other property of the corporation.

(f) Any pledge made by the corporation shall create a perfected security interest in the revenues, moneys, or property so pledged and thereafter received by the corporation from and after the time that a financing statement with respect to the revenues, moneys, or property so pledged and thereafter received shall be filed with the bureau of conveyances. Upon such filing, the revenues, moneys, or property so pledged and thereafter received by the corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be prior to the lien of all parties having claims by any kind in tort, contract, or otherwise against the corporation, irrespective of whether such parties have notice thereof. This section shall apply to any financing statement heretofore or hereafter filed with the bureau of conveyances with respect to any pledge made to secure revenue bonds issued under this part.

(g) Neither the members of the corporation nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

**§ -51 Bonds; interest rate, price, and sale.** (a) The bonds shall bear interest at such rate or rates payable at such time or times as the corporation may, with the approval of the governor, determine except for deeply discounted bonds which are subject to redemption or retirement at their accreted value; provided that the discounted value of such bonds shall not exceed ten per cent of any issue; and provided further that no such bonds may be issued without the prior approval of the director of finance and the governor.

(b) The corporation shall include the costs of undertaking and maintaining the housing project for which the bonds are issued in determining the principal amount of bonds to be issued. In determining the cost of undertaking and maintaining the housing projects, the corporation may include the cost of studies and surveys; insurance premiums; underwriting fees; financial consultant, legal, accounting, and other services incurred; reserve account, trustee, custodian, and rating agency fees; and interest on the bonds for a period not to exceed one year beyond the estimated completion of the housing project for which the bonds are issued.

(c) The bonds may be sold at public or private sale, and for such price or prices as may be determined by the corporation to be in the best interest of the State.

**§ -52 Trustee; designation, duties.** (a) The corporation may designate a trustee for each issue of bonds secured under the same trust indenture; provided that the trustee shall be approved by the director of finance.

(b) The trustee shall be authorized by the corporation to receive and receipt for, hold, and administer the proceeds of the bonds, and to apply the proceeds to the purposes for which the bonds are issued.

(c) The trustee shall also be authorized by the corporation to hold and administer the housing project bond special fund established pursuant to section -57, and to receive and receipt for, hold, and administer the revenues derived by the corporation from the housing project for which the bonds are issued or the system of housing projects pledged to the payment of such bonds, and to apply such revenues to the payment of the cost of administering, operating, and maintaining the housing project or system of housing projects, to pay the principal of the interest on the bonds, to the

establishment of reserves, and to other purposes as may be authorized in the proceedings providing for the issuance of the bonds.

(d) Notwithstanding section 39-65, the director of finance may appoint the trustee to serve as fiscal agent for:

- (1) The payment of the principal of and interest on the bonds; and
- (2) The purchase, registration, transfer, exchange, and redemption of the bonds.

(e) The trustee shall perform additional functions with respect to the payment, purchase, registration, transfer, exchange, and redemption, as the director of finance may deem necessary, advisable, or expeditious, including the holding of the bonds and coupons, if any, which have been paid and the supervision of the destruction thereof in accordance with law.

(f) Nothing in this part shall limit or be construed to limit the powers granted to the director of finance in sections 36-3 and 39-12, and the third sentence of section 39-65, to appoint the trustee or others as fiscal agents, paying agents, and registrars for the bonds or to authorize and empower those fiscal agents, paying agents, and registrars to perform the functions referred to in those sections.

**§ -53 Trust indenture.** (a) A trust indenture may contain covenants and provisions authorized by part III of chapter 39, and as deemed necessary or convenient by the corporation for the purposes of this part.

(b) A trust indenture may allow the corporation to pledge and assign to the trustee such agreements related to the housing project or system of housing projects and the rights of the corporation thereunder, including the right to receive revenues thereunder and to enforce the provision thereof.

(c) Where a trust indenture provides that any bond issued under that trust indenture is not valid or obligatory for any purpose unless certified or authenticated by the trustee, all signatures of the officers of the State upon the bonds required by section 39-64 may be facsimiles of their signatures.

(d) A trust indenture shall also contain provisions as to:

- (1) The investment of the proceeds of the bonds, the investment of any reserve for the bonds, the investment of the revenues of the housing project or system of housing projects, and the use and application of the earnings from investments; and
- (2) The terms and conditions upon which the holders of the bonds or any portion of them or any trustee thereof may institute proceedings for the enforcement of any agreement or any note or other undertaking, obligation, or property securing the payment of the bonds and the use and application of the moneys derived therefrom.

(e) A trust indenture may also contain provisions deemed necessary or desirable by the corporation to obtain or permit, by grant, interest subsidy, or otherwise, the participation of the federal government in the housing projects or in the financing of the costs of administering, operating, or maintaining the housing projects.

**§ -54 Investment of reserves, etc.** The corporation may invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control. No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to the corporation unless the legislature shall specifically so state.

§ -55 **Security for funds deposited by corporation.** The corporation may by resolution provide that all moneys deposited by it shall be secured:

- (1) By any securities by which funds deposited by the director of finance may be legally secured as provided in section 38-3; or
- (2) By an undertaking with such sureties as are approved by the corporation faithfully to keep and pay over upon the order of the corporation any such deposits and agreed interest thereon, and all banks and trust companies are authorized to give any such security for such deposits.

§ -56 **Bonds as legal investments.** The State and all of its public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, including savings and loan associations, all investment companies, insurance companies, insurance associations, and other persons carrying on an insurance business in the State, and all personal representatives, guardians, trustees, and other fiduciaries in the State may legally invest any moneys or funds belonging to them or within their control and available for investment under other provisions of law, in any bonds or other obligations issued by the housing finance and development corporation, or in any bonds or other obligations issued by any public housing authority or agency in the United States when the bonds or other obligations of the public housing authority or agency are secured by a pledge of annual contributions or other financial assistance to be paid by the federal government or any agency thereof, and the bonds and other obligations of the corporation and the bonds and other obligations of any such public housing authority or agency shall be authorized security for all public deposits and shall be fully negotiable in the State. It is the purpose of this section to authorize any of the foregoing to use any funds owned or controlled by them, including (but not limited to) sinking, insurance, investment, retirement, compensation, pension, and trust funds and funds held on deposit, for the purchase of any such bonds or other obligations; provided that nothing contained in this section shall operate to relieve any person, firm, or corporation from liability for failure to exercise reasonable care in selecting investments or, in the case of a guardian or trustee, from liability for failure to exercise the judgment and care to observe the duties required of a guardian or trustee by sections 406-22 and 554-6.

§ -57 **Housing finance revolving fund; housing project bond special funds.** (a) There is created a housing finance revolving fund to be administered by the corporation. Notwithstanding sections 36-21 and -204, the proceeds in the fund shall be used for long-term and other special financings of the corporation and for the necessary expenses in administering this chapter.

(b) All moneys received and collected by the corporation, not otherwise pledged or obligated nor required by law to be placed in any other special fund, shall be deposited in the housing finance revolving fund.

(c) A separate special fund shall be established for each housing project or system of housing projects financed from the proceeds of bonds secured under the same trust indenture. Each fund shall be designated "housing project bond special fund" and shall bear additional designation as the corporation deems appropriate to properly identify the fund.

(d) Notwithstanding any other law to the contrary, all revenues, income, and receipts derived from a housing project or system of projects financed from the proceeds of bonds or pledged to the payment of principal of and interest and premium on bonds, shall be paid into the housing project bond special fund established for such housing project or system of housing

projects and applied as provided in the proceedings authorizing the issuance of such bonds.

### B. Housing Loan and Mortgage Programs

§ -60 **Definitions.** The following words or terms as used in this subpart shall have the following meanings unless a different meaning clearly appears from the context:

“Eligible borrower” means a person or family, irrespective of race, creed, national origin, or sex, who:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is a bona fide resident of the State;
- (3) Is at least of legal age;
- (4) Does not personally, or whose spouse if the person is married, own any interest in a principal residence within or without the State and who has not owned a principal residence within the three years immediately prior to the application for an eligible loan under this part, except this requirement shall not apply to any eligible loan for a targeted area residence as defined in the Mortgage Subsidy Bond Tax Act of 1980, Public Law 96-499, which residence is to replace a housing unit which has been declared structurally unsalvageable by a governmental board or agency having the power to make such a declaration; and provided further that this requirement shall not apply to up to ten percent of eligible loans of a bond issue made to single parent household borrowers. No such loans, however, shall be made if they adversely affect the tax-exempt status of the bonds issued. For the purpose of this section, “single parent household” means a household headed by a single person who has legal custody of one or more dependent children;
- (5) Has never before obtained a loan under this part; and
- (6) Meets other qualifications as established by rules adopted by the corporation.

“Eligible improvement” means alterations, repairs, or improvements to an existing housing unit which substantially protect or improve the basic livability of the unit.

“Eligible improvement loan” means a loan to finance an eligible improvement to the owner of the housing unit, which may be a condominium unit, where the eligible improvement is to be made; provided that the owner meets the requirements of an eligible borrower, except that the requirements of paragraph (4) set forth in the definition of “eligible borrower” need not apply, the unit to be financed is located in the State, the unit will be occupied as the principal place of residence of the borrower, and meets other requirements as established by rules adopted by the corporation.

“Eligible loan” means a loan to an eligible borrower for the permanent financing of a dwelling unit, including a condominium unit; provided that the property financed is located in the State, will be occupied as the principal place of residence by the eligible borrower, and meets other requirements as established by rules adopted by the corporation.

“Eligible project loan” means an interim or permanent loan, which may be federally insured or guaranteed, made to a qualified sponsor for the financing of a rental housing project, and which meets other requirements as established by rules adopted by the corporation.

## ACT 337

“Housing loan programs” includes all or any part of the loan to lenders program, the purchase of existing loans program, the advance commitments program, and the loan funding programs authorized under this subpart.

“Mortgage lender” means any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, credit union, insurance company, or any other financial institution, or a holding company for any of the foregoing, which:

- (1) Is authorized to do business in the State;
- (2) Customarily provides service or otherwise aids in the financing of mortgages on single family or multi-family residential property; and
- (3) Is a financial institution whose accounts are federally insured or is an institution which is an approved mortgagee for the Federal Housing Administration or is an approved lender for the Veterans Administration or the Farmers Home Administration or is an approved mortgage loan servicer for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

“Qualified sponsor” means any person or entity determined by the corporation:

- (1) To be qualified by experience, financial responsibility, and support to construct a housing project of the type and magnitude described;
- (2) To have submitted plans for a project adequately meeting the objectives of this chapter, the maintenance of aesthetic values in the locale of the project, and the requirements of all applicable environmental statutes and rules; and
- (3) To meet other qualifications as established by rules adopted by the corporation pursuant to chapter 91.

“Revenue bond” means bonds, notes, or other evidence of indebtedness of the corporation issued to finance any of the housing loan programs under this part.

“Trust indenture” means an agreement by and between the corporation and the trustee, which sets forth the duties of the trustee with respect to the revenue bonds, the security therefor, and other provisions as deemed necessary or convenient by the corporation to secure the revenue bonds.

“Trustee” means a national or state bank or trust company within or without the State which enters into a trust indenture.

§ -61 **Owner-occupancy requirement.** (a) An eligible borrower shall utilize the dwelling unit purchased under this subpart as the eligible borrower’s permanent and primary residence.

(b) From time to time, the corporation may submit a verification of owner-occupancy form to the eligible borrower. Failure to respond to this verification in a timely manner may result in an immediate escalation of the interest rate or acceleration of the eligible loan.

§ -62 **Rules; eligible borrower.** (a) The corporation shall establish the qualifications of the eligible borrower, and may consider, but not be limited to the following:

- (1) The proportion of income spent for shelter;
- (2) Size of the family;
- (3) Cost and condition of housing available to the total housing market; and

- (4) Ability of the person to compete successfully in the normal housing market and to pay the amounts on which private enterprise is providing loans for safe, decent, and sanitary housing in the State.

(b) The adjusted household income of an eligible borrower shall not exceed the amount established by the corporation pursuant to this section. For an eligible borrower with a family of four persons, the amount shall be equal to one hundred seventy-two and one-half per cent of the median annual income for households of four persons in the State as published by the United States Department of Health and Human Services in November 1980; provided that the amount may be increased by four per cent for each one-half per cent that the annual interest rate on the eligible loan exceeds ten per cent. For an eligible borrower with a family of other than four persons, the amount computed above for a family of four persons shall be adjusted in accordance with rules adopted by the corporation. As used in this subsection, "adjusted household income" means the total income, before taxes and personal deductions, received by all members of the eligible borrower's household, including, but not limited to, wages, social security payments, retirement benefits, unemployment benefits, welfare benefits, interest and dividend payments, and such other income as provided by rules adopted by the corporation under chapter 91, but not including business deductions and income received by dependent members of an eligible borrower's household.

(c) The assets of an eligible borrower shall not exceed an annual amount equal to the adjusted household income for an eligible borrower as set forth in subsection (b). As used in this section, assets include, but are not limited to, all cash, securities, and real and personal property, less any outstanding liabilities secured by such assets and less twenty-five per cent of a downpayment required for the purchase of property financed by an eligible loan. For purposes of this section, the value of a vacant lot owned by an eligible borrower shall not be included as an asset when a dwelling unit is or shall be constructed on the property and financed by an eligible loan.

(d) For the purpose of determining the qualification of an eligible borrower for an eligible improvement loan:

- (1) The housing unit for which the eligible improvement loan is to be made and the property on which the housing unit is situated shall not be included in the calculation of the eligible borrower's assets; and
- (2) The mortgage secured by the housing unit and property shall not be included in the calculation of the eligible borrower's liabilities.

(e) For the purpose of determining the qualification of an eligible borrower for an eligible loan for a targeted area residence:

- (1) The housing unit being replaced and the property on which the housing unit is situated shall not be included in the calculation of the eligible borrower's assets; and
- (2) The mortgage secured by the housing unit and the property shall not be included in the calculation of the eligible borrower's liabilities.

§ -63 Rules; eligible loans. (a) The corporation shall establish requirements for property financed by an eligible loan, and may consider, but not be limited to the location, age, condition, and other characteristics of the property.

**ACT 337**

(b) The corporation shall establish restrictions on the terms, maturities, interest rates, collateral, and other requirements for eligible loans.

(c) All eligible loans made shall comply with applicable state and federal laws.

**§ -64 Rules; eligible project loans.** (a) The corporation shall establish requirements for projects to be financed by an eligible project loan, and may consider, but not be limited to the location, age, condition, and other characteristics of the project.

(b) The corporation shall establish restrictions on the terms, maturities, interest rates, and other requirements for eligible project loans.

(c) The corporation shall establish restrictions on the prepayment of eligible project loans and on the transfer of ownership of the projects securing eligible project loans.

(d) The corporation shall require that any sums deferred on land leased at nominal rates by the corporation to the owner of an eligible project shall be recovered by the corporation at the time an eligible project loan is prepaid, whether as a result of refinancing of the eligible project loan or otherwise, to the extent that funds are available therefor from the refinancing or other method by which the eligible project loan is paid in full prior to its due date.

(e) The corporation shall enter into an agreement with the owner of an eligible project to be financed with an eligible project loan which shall provide that in the event that the eligible project loan is at any time prepaid for the purpose of converting the rental units of such project to ownership units, all tenants at the time of the proposed conversion shall have the first option to purchase their units.

(f) All eligible project loans shall comply with applicable state and federal laws.

**§ -65 Rules; eligible improvement loans.** (a) The corporation shall establish requirements for property financed by an eligible improvement loan, and may consider, but not be limited to, the location, age, condition, value, and other characteristics of the property.

(b) The corporation shall establish restrictions on the terms, maturities, interest rates, collateral, and other requirements for eligible improvement loans.

(c) All eligible improvement loans made shall comply with applicable state and federal laws.

**§ -67 Revenue bonds; authorization.** (a) The corporation, with the approval of the governor, may issue from time to time revenue bonds in amounts not exceeding the total amount of bonds authorized to be issued by the legislature for the purpose of undertaking and maintaining any of the housing loan programs authorized by this subpart.

(b) All revenue bonds shall be issued pursuant to part III of chapter 39, except as provided in this part.

(c) The revenue bonds shall be issued in the name of the corporation, and not in the name of the State. The final maturity date of the revenue bonds may be any date not exceeding forty years from the date of issuance; except that the final maturity date of the revenue bonds issued to finance eligible project loans may be any date not exceeding fifty years from the date of issuance.

**§ -68 Revenue bonds; payment and security.** (a) The revenue bonds shall be payable from and secured by the revenues derived from the benefits



of the housing loan programs for which the revenue bonds are issued, including:

- (1) Any payment made for eligible loans, eligible improvement loans, or eligible project loans or other agreements entered into for the housing loan programs;
- (2) Revenues derived from insurance proceeds;
- (3) Reserve accounts and earnings thereon; and
- (4) Revenues resulting from loans to mortgage lenders or from the payment on account of principal of and interest on loans purchased from mortgage lenders.

(b) The corporation may pledge any revenues derived from the housing loan programs financed from the proceeds of the revenue bonds to the punctual payment of the principal, interest, and redemption premiums, if any, on the revenue bonds.

(c) The revenue bonds may be additionally secured by the pledge or assignment of the loans and other agreements or any note or other undertaking, obligation, or property held by the corporation to secure the loans.

(d) Any pledge made by the corporation shall create a perfected security interest in the revenues, moneys, or property so pledged and thereafter received by the corporation from and after the time that a financing statement with respect to the revenues, moneys, or property so pledged and thereafter received shall be filed with the bureau of conveyances. Upon such filing, the revenues, moneys, or property so pledged and thereafter received by the corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be prior to the lien of all parties having claims of any kind in tort, contract, or otherwise against the corporation, irrespective of whether such parties have notice thereof. This section shall apply to any financing statement heretofore or hereafter filed with the bureau of conveyances with respect to any pledge made to secure revenue bonds issued under this subpart.

**§ -69 Revenue bonds; interest rate, price, and sale.** (a) The revenue bonds shall bear interest at a rate or rates payable at such time or times as the corporation may determine with the approval of the governor, except for deeply discounted bonds which are subject to redemption or retirement at their accreted value; provided that the discounted value of such bonds shall not exceed ten per cent of any issue; and provided further that no such bonds may be issued without the prior approval of the director of finance and the governor.

(b) The corporation shall include the costs of undertaking and maintaining the housing loan programs for which the revenue bonds are issued in determining the principal amount of revenue bonds to be issued. In determining the cost of undertaking and maintaining the housing loan programs, the corporation may include the cost of purchasing or funding loans or other agreements entered into for the housing loan programs; the costs of studies and surveys; insurance premiums; underwriting fees; financial consultant, legal, accounting and marketing services incurred; reserve account, trustee, custodian, and rating agency fees; and interest on the bonds for a period not to exceed one year from the date of issuance.

(c) The revenue bonds may be sold at public or private sale, and for a price as may be determined by the corporation to be in the best interest of the State.

§ -70 **Revenue bonds; investment of proceeds, and redemption.** Subject to any agreement with the holders of its revenue bonds, the corporation may:

- (1) Invest its moneys not required for immediate use, including proceeds from the sale of any revenue bonds, in accordance with section -54; and
- (2) Purchase its revenue bonds out of any fund or money of the corporation available therefor, and hold, cancel, or resell the revenue bonds.

§ -71 **Trustee; designation, duties.** (a) The corporation shall designate a trustee for each issue of revenue bonds secured under the same trust indenture; provided that the trustee shall be approved by the director of finance.

(b) The trustee shall be authorized by the corporation to receive and receipt for, hold, and administer the proceeds of the revenue bonds, and to apply the proceeds to the purposes for which the bonds are issued.

(c) The trustee shall also be authorized by the corporation to hold and administer the housing loan program revenue bond special fund established pursuant to section -73, and to receive and receipt for, hold, and administer the revenues derived by the corporation from each of the housing loan programs for which the revenue bonds were issued, and apply those revenues to pay the cost of administering, operating, and maintaining the respective housing loan programs, to pay the principal of and interest on those bonds, establish reserves, and for any other purpose as may be authorized in the proceedings providing for the issuance of the revenue bonds.

(d) Notwithstanding section 39-65, the director of finance may appoint the trustee to serve as fiscal agent for:

- (1) The payment of the principal of and interest on the revenue bonds; and
- (2) The purchase, registration, transfer, exchange, and redemption of the bonds.

(e) The trustee shall perform additional functions with respect to the payment, purchase, registration, transfer, exchange, and redemption, as the director of finance may deem necessary, advisable, or expeditious, including the holding of the revenue bonds and coupons which have been paid and the supervision of the destruction thereof in accordance with law.

(f) Nothing in this part shall limit or be construed to limit the powers granted to the director of finance in sections 36-3 and 39-12, and the third sentence of section 39-65, to appoint the trustee or others as fiscal agents, paying agents, and registrars for the revenue bonds or to authorize and empower those fiscal agents, paying agents and registrars to perform the functions referred to in those sections.

§ -72 **Trust indenture.** (a) A trust indenture may contain covenants and provisions authorized by part III of chapter 39, and as deemed necessary or convenient by the corporation for the purposes of this part.

(b) A trust indenture may allow the corporation to pledge and assign to the trustee loans and other agreements related to the housing loan programs, and the rights of the corporation thereunder, including the right to receive revenues thereunder and to enforce the provisions thereof.

(c) Where a trust indenture provides that any revenue bond issued under that trust indenture is not valid or obligatory for any purpose unless certified or authenticated by the trustee, all signatures of the officers of the State upon the revenue bonds required by section 39-64 may be facsimiles of their signatures.

(d) A trust indenture shall also contain provisions as to:

- (1) The investment of the proceeds of the revenue bonds, the investment of any reserve for the bonds, the investment of the revenues of the housing loan programs, and the use and application of the earnings from investments; and
- (2) The terms and conditions upon which the holders of the revenue bonds or any portion of them or any trustee thereof may institute proceedings for the foreclosure of any loan or other agreement or any note or other undertaking, obligation, or property securing the payment of the bonds and the use and application of the moneys derived from the foreclosure.

(e) A trust indenture may also contain provisions deemed necessary or desirable by the corporation to obtain or permit, by grant, interest subsidy, or otherwise, the participation of the federal government in the housing loan programs or in the financing of the costs of administering, operating, or maintaining the housing loan programs.

**§ -73 Revenue bonds; special funds.** (a) A separate special fund shall be established for each housing loan program or part thereof financed from the proceeds of the revenue bonds secured under the same trust indenture. Each fund shall be designated "housing loan program revenue bond special fund" and shall bear additional designation as the corporation deems appropriate to properly identify the fund.

(b) Notwithstanding any other law to the contrary, including particularly section -204, all revenues, income, and receipts derived from the benefits of the housing loan program for which the revenue bonds are issued shall be paid into the housing loan program revenue bond special fund established for that program and applied as provided in the proceedings authorizing the issuance of the revenue bonds.

**§ -75 Housing loan programs; procedures and requirements.** (a) The corporation shall establish procedures for:

- (1) The submission of requests or the invitation of proposals for loans to mortgage lenders;
- (2) The purchase of existing loans by auction, invitation of tenders, or negotiation;
- (3) The making of advance commitments to purchase and the purchasing of eligible loans, eligible improvement loans, or eligible project loans to be made by mortgage lenders by auction, invitation of tenders, or negotiation; and
- (4) Loan applications made through mortgage lenders to eligible borrowers or qualified sponsors.

(b) The corporation shall establish standards and requirements for:

- (1) The allocation of loans to mortgage lenders;
- (2) The allocation of funds to purchase existing loans from mortgage lenders;
- (3) The making of advance commitments and allocation of funds to purchase eligible loans, eligible improvement loans, or eligible project loans from mortgage lenders;
- (4) The participation by mortgage lenders as originators and processors of eligible loans, eligible improvement loans, or eligible project loans on behalf of the corporation.

(c) The standards and requirements for the allocation of funds to mortgage lenders adopted by the corporation shall be designed to include the maximum number of qualified mortgage lenders as participants in the housing loan programs.

§ -76 **Housing loan programs; general powers.** (a) The corporation may make, enter into, and enforce all contracts or agreements which are necessary, convenient, or desirable for the purposes of the performance of its duties in executing the housing loan programs.

(b) The corporation may require representations and warranties as it determines necessary to secure its loans.

§ -77 **Housing loan programs; self supporting.** The interest rate, fees, charges, premiums, and other terms of the loans made under the housing loan programs shall be at least sufficient to pay the cost of administering and maintaining the portion of the specific housing loan programs for which the revenue bonds have been issued, and to assure payment of the principal of and interest on the revenue bonds as they become due.

§ -78 **Housing loan programs; fees.** The corporation may establish, revise, charge, and collect fees, premiums, and charges as necessary, reasonable, or convenient, for its housing loan programs.

The fees, premiums, and charges shall be deposited into the housing loan program revenue bond special fund established for the particular housing loan program or part thereof from which the fees, premiums, and charges are derived as determined by the corporation.

§ -79 **Housing loan programs; evidence of eligible loan, eligible improvement loan, or eligible project loan.** (a) Each mortgage lender who participates in any housing loan program shall submit evidence, as deemed satisfactory by the corporation, that eligible loans, eligible improvement loans, or eligible project loans have been made from the proceeds of the revenue bonds.

(b) The corporation may inspect the books and records of the mortgage lenders as may be necessary for this section.

§ -80 **Loans to lenders program.** (a) The corporation may make loans to mortgage lenders under terms and conditions requiring that the loan proceeds be used within a time period prescribed by the corporation to make eligible loans, eligible improvement loans, and eligible project loans in an aggregate principal amount substantially equal to the amount of the loan.

(b) The loan made to a mortgage lender shall be a general obligation of the respective mortgage lender.

(c) The loan as determined by the corporation shall:

- (1) Bear a date or dates;
- (2) Mature at a time or times;
- (3) Be evidenced by a note, bond, or other certificate of indebtedness;
- (4) Be subject to prepayment; and
- (5) Contain other provisions consistent with this part.

(d) Subject to any agreement with the holders of its revenue bonds, the corporation may consent to any modification to the rate of interest, time, and payment of any installment of principal or interest, security, or any other term of any loan to a mortgage lender or any bond, note, contract, or agreement of any kind to which the corporation is a party.

§ -81 **Loan to lenders program; collateral security.** (a) Loans made to mortgage lenders shall be additionally secured by a pledge of a lien upon collateral security in an amount as the corporation deems necessary to assure the payment of principal of and interest on the loans as they become due.

(b) The corporation shall determine the nature and type of collateral security required.

(c) A statement designating the collateral security pledged, the mortgage lender pledging the collateral, and the corporation's interest in the pledged collateral may be filed with the bureau of conveyances. Where a statement has been filed, no possession, further filing, or other action under any state law shall be required to perfect any security interest which may be deemed to have been created in favor of the authority. The mortgage lender shall be deemed the trustee of an express trust for the benefit of the corporation in all matters relating to the pledged collateral.

(d) Subject to any agreement with the holders of its revenue bonds, the corporation may collect, enforce the collection of, and foreclose on any collateral securing its loans to mortgage lenders. The corporation may acquire, take possession of, sell at public or private sale with or without bidding, or otherwise deal with the collateral to protect its interests.

**§ -85 Purchase of existing loans program.** (a) The corporation may contract with a mortgage lender to purchase, in whole or in part, existing loans, whether or not eligible loans, eligible improvement loans, or eligible project loans. The contract may contain provisions as determined by the corporation to be necessary or appropriate to provide security for its revenue bonds, including, but not limited to, provisions requiring the:

- (1) Repurchase of the loans, in whole or in part, by mortgage lenders at the option of the corporation;
- (2) Payments of premiums, fees, charges, or other amounts by mortgage lenders to provide a reserve or escrow fund for the purposes of protecting against loan defaults; and
- (3) Guarantee by, or for recourse against, mortgage lenders, with respect to defaults on these loans of the corporation.

(b) The corporation shall require as a condition of each purchase of existing loans from a mortgage lender that the mortgage lender proceed to make and disburse eligible loans, eligible improvement loans, or eligible project loans in an aggregate principal amount substantially equal to the amount of the proceeds from the purchase by the corporation of loans therefrom.

**§ -90 Advance commitments program.** (a) The corporation may contract with a mortgage lender for the advance commitment to purchase eligible loans, eligible improvement loans, or eligible project loans.

(b) The contract may contain provisions as determined by the corporation to be necessary or appropriate to provide security for its revenue bonds.

**§ -95 Loan funding programs.** (a) The corporation may contract with mortgage lenders to fund eligible loans and eligible improvement loans and may directly make or contract with mortgage lenders to fund eligible project loans.

(b) Any such contract with a mortgage lender may contain provisions as determined by the corporation to be necessary or appropriate to provide security for its revenue bonds.

**§ -100 Loans; service and custody.** The corporation may contract for the service and custody of its loans. The contract may provide for the payment of fees or charges for the services rendered; provided that the fees or charges shall not exceed the usual, customary, and reasonable charges for the services rendered.

§ -101 **Loans; sale, pledge, or assignment.** (a) Subject to any agreements with the holders of its revenue bonds, the corporation may sell its loans at public or private sale at a price and upon terms and conditions as it determines.

(b) Subject to any agreements with holders of its revenue bonds, the corporation may pledge or assign its loans, other agreements, notes, or property to secure the loans or agreements.

§ -102 **Loans; insurance and guarantees.** The corporation may procure insurance or guarantees against any default of its loans, in amounts and from insurers or guarantors, as it deems necessary or desirable.

§ -103 **Loans; default.** The corporation may renegotiate, refinance, or foreclose any loan in default.

The corporation may waive any default or consent to the modification of the terms of any loan or security agreement.

The corporation may commence any action to protect or enforce any right conferred upon it by any law, mortgage, insurance policy, contract, or other agreement.

The corporation may bid for and purchase the property secured by the loan at any foreclosure or other sale, or acquire or take possession of the property secured by the loan.

The corporation may operate, manage, lease, dispose of, or otherwise deal with the property secured by the loan.

§ -104 **Arbitrage provisions.** Any other provisions of the law to the contrary notwithstanding, the corporation shall not make or cause to be made loans from the proceeds of the revenue bonds issued pursuant to this part under terms or conditions which would cause any revenue bond to be an "arbitrage bond" as defined in section 103 of the Internal Revenue Code of 1954, as amended.

### C. Taxable Mortgage Securities Programs

(Reserved)

#### D. Rental Assistance Program

§ -130 **Purpose; findings and determinations.** The legislature finds and declares that the health and general welfare of the people of the State require that the people of this State have safe and sanitary rental housing accommodations available at affordable rents; that a grave shortage in the number of such accommodations affordable by families and individuals of low and moderate income in the State exists; that it is essential that owners of rental housing accommodations be provided with appropriate additional means to assist in reducing the cost of rental housing accommodations to the people of the State; that it is the purpose of this part to assist such owners in maintaining the rentals at levels affordable by families and individuals of low and moderate income by providing such owners with rental assistance payments which, with rentals received by tenants of low and moderate income, will provide such owners with limited but acceptable rates of return on their investments in rental housing accommodations; and that assisting such owners by entering into contracts with them which provide for rental assistance payments is a valid public purpose and in the public interest.

§ -131 **Definitions.** The following words or terms as used in this subpart shall have the following meanings unless a different meaning clearly appears from the context:

"Eligible project" means a rental housing project which:

- (1) Is financed by the corporation pursuant to subpart II.B. or II.C. of this chapter, or the corporation determines will require rental assistance to make it financially feasible;
- (2) Is subject to a regulatory agreement with the corporation;
- (3) Maintains at least twenty per cent of its units for eligible tenants;
- (4) Other than a unit reserved for a manager of the project, maintains the remainder of its units for moderate income persons and families, whose incomes shall not exceed the limits set forth in section -62(b); and
- (5) Meets other qualifications as established by rules adopted by the corporation.

“Eligible tenant” means a family or an individual of low or moderate income as determined by the Secretary of the United States Treasury Department in accordance with the Internal Revenue Code of 1954, as amended.

“Owner” means the owner of an eligible project.

“Regulatory agreement” means an agreement between the corporation and the owner relating to an eligible project which includes provisions relating to rents, charges, profits, return on owner’s equity, development costs, and methods of operation.

“Rental assistance contract” means an agreement between an owner and the corporation providing for periodic rental assistance payment for units in an eligible project.

§ -132 **Rental assistance revolving fund.** (a) There is created a rental assistance revolving fund to be administered by the corporation.

(b) The aggregate principal sum in the rental assistance revolving fund which may without limitation include sums made available from any government program or grant, from private grants or contributions, or by appropriation, shall be invested by the corporation in a manner which will preserve the principal sum and maximize the rate of return on investment of the fund; provided that any investment shall be consistent with section -54 but need not comply with section 36-21.

(c) Earnings on the investment of the rental assistance revolving fund and amounts recovered by the corporation pursuant to section -134(f) may be applied by the corporation to payments under the rental assistance contracts.

§ -133 **Rental assistance contracts.** (a) The corporation may enter into a rental assistance contract and a regulatory agreement with an owner of an eligible project.

(b) Prior to the execution of a rental assistance contract, the corporation may execute an agreement to enter into a rental assistance contract with an owner, which agreement shall provide for the execution of a rental assistance contract upon satisfaction of the terms set forth in such agreement and otherwise established by the corporation.

(c) The corporation shall not enter into any rental assistance contract which would require the corporation to make payments at any time in excess of the amount available at such time or times in the rental assistance revolving fund pursuant to section -132 for the funding of such payments. Each rental assistance contract shall provide that rental assistance payments shall be made solely from the earnings on the investment of the rental assistance revolving fund.

(d) A rental assistance contract shall be for a term of not less than ten years and shall not be for a term in excess of the period for which the

corporation has invested the principal of the rental assistance revolving fund at a known rate of return.

(e) Each rental assistance contract shall set forth a maximum annual rental assistance payment amount. The corporation shall establish procedures for determining the maximum annual rental assistance payment amount and may consider, but not be limited to, the following:

- (1) The cost of constructing the eligible project;
- (2) The estimated annual operating cost of the eligible project;
- (3) The estimated maximum rentals which may be charged for units in the eligible project;
- (4) The amount of funds available for the funding of rental assistance contracts;
- (5) The number of eligible projects requiring assistance under this part; and
- (6) A restricted rate of return on equity to the owner, which rate shall be established by the corporation by rule.

§ -134 Rules, rental assistance program. (a) Prior to the execution of a rental assistance contract and annually thereafter, the owner shall submit a proposed rental schedule to the corporation for approval, which schedule shall list every rental unit in the project and shall designate which units are to be maintained for eligible tenants.

(b) The corporation shall establish procedures for evaluating the rental schedules submitted pursuant to this section, and may consider, but not be limited to, the following:

- (1) The size of and number of bedrooms in the units comprising the eligible project;
- (2) The location of the project and its type (whether high-rise, mid-rise, or low-rise);
- (3) The percentage of units being maintained for eligible tenants; and
- (4) The rentals prevalent in the open market for comparable units.

(c) Annually, following the approval of the rental schedule submitted pursuant to the preceding section, the corporation shall determine the amount of rental assistance payments payable to the owner for the forthcoming year, which amount shall under no circumstances exceed the maximum annual rental assistance payment amount determined in accordance with section -133. The amount determined pursuant to this subsection shall take into account the estimated amount to be derived by the owner from rentals to be charged for the forthcoming year and the limited rate of return on equity permitted in accordance with section -133(e)(6).

(d) The corporation shall establish standards and requirements for:

- (1) The awarding of rental assistance contracts and the allocation of annual rental assistance payments;
- (2) The form of lease to be utilized by the owner in renting units in an eligible project;
- (3) The marketing and tenant selection and admission processes to be employed by the owner with respect to an eligible project; and
- (4) The maintenance and operation of eligible projects.

(e) The corporation shall establish procedures for:

- (1) The annual review of rental schedules for eligible projects;
- (2) The periodic review of the income of tenants renting units in eligible projects; and



- (3) The periodic inspection of eligible projects to monitor the owners' compliance with the terms and conditions of their rental assistance contracts.

(f) The corporation shall be entitled to share in any appreciation in value of an eligible project realized at the time of refinancing or prepayment of the eligible project loan. The corporation's share shall be calculated by multiplying the appreciation of the eligible project realized upon refinancing or prepayment by the ratio of the owner's equity to the discounted value of the aggregate rental assistance payments. The discount rate shall be established by rules adopted by the corporation.

§ -135 **Benefits of program not exclusive.** Nothing in this part contained shall be construed to prohibit, with respect to an eligible project, the operation of the rental assistance program in conjunction with other state or federal programs including, but not limited to, the state rent supplements provided for in part VI of chapter 359.

### **E. Housing Opportunity Allowance Program**

§ -140 **Purpose.** Subject to the provisions of this subpart, the corporation may provide funds to assist a prospective home buyer who is ineligible to obtain home purchase assistance under other subsidy programs of the state and federal government, and whose income is insufficient to permit the prospective home buyer to obtain a mortgage loan providing for monthly payments within the prospective home buyer's financial ability from a private lender on either a conventional or a guaranteed or insured, but unsubsidized, basis.

§ -141 **Definitions.** As used in this subpart:

"Allowance" means a housing opportunity allowance to be credited against interest due on a qualifying loan as further described in section 142.

"Eligible borrower" means a borrower who, at the time of making application for an allowance and at the time of closing of a qualified loan:

- (1) Is either spouse of a married couple living together, or both such spouses, or the head of a household with one or more dependents;
- (2) Has an annual aggregate gross family income not in excess of two hundred fifty per cent of the income limits set by the Hawaii housing authority for a family of the same size to be admitted to low-rent public housing owned by the authority;
- (3) Is a citizen of the United States or a resident alien who now resides in the State;
- (4) Is at least eighteen years of age;
- (5) Is a bona fide resident of the State for one year or more;
- (6) Has a bona fide intent to reside in the residential property to be purchased;
- (7) Is accepted by a mortgagee as a person to whom it is willing to make a qualifying loan provided an allowance is paid under this subpart; and
- (8) Has assets not in excess of \$10,000 as defined in rules adopted by the corporation.

Any person who has a majority interest in fee simple or in leasehold lands, or in any other residential property within or without the State, or who has or has had a loan made under this program shall be deemed ineligible to become a borrower under this subpart. A person shall be

deemed to own a residential property if the person, the person's spouse, or both the person and the person's spouse (unless separated and living apart under a decree of a court of competent jurisdiction) own such residential property.

"Mortgagee" means any bank or other institution authorized by law to make loans on dwelling units.

"Qualifying loan" means a loan which:

- (1) Is for the purpose of financing the purchase of a dwelling unit to be owned and occupied by an eligible borrower as the primary residence;
- (2) Is secured or is to be secured by a first lien on such dwelling unit;
- (3) Is in a principal amount which is:
  - (A) Not less than an amount equal to seventy per cent of the fair market value of the security property; and
  - (B) Not more than the lesser of an amount equal to one hundred per cent of the fair market value of the security property, or the purchase price of the security property.

§ -142 **Housing opportunity allowance.** (a) Any eligible borrower who has obtained a qualifying loan and a commitment from a mortgagee, and who has certified that all information provided in the eligible borrower's application for the allowance is accurate at the time of closing, is eligible to receive an allowance from such mortgagee. An allowance in the amount determined by the corporation under subsection (e) shall be credited against the interest charged on each of the first sixty monthly installments paid on the qualifying loan, subject to terms and conditions included in the commitment.

(b) The borrower may make application for an allowance to the mortgagee to which the borrower has applied for a qualifying loan. The application for an allowance shall be on a form prescribed by the corporation.

(c) In making such application, the applicant shall sign a statement of intention that, if the qualifying loan is made, the borrower:

- (1) Will be the title owner of the real estate securing the loan;
- (2) Will occupy the dwelling unit comprising such real estate as a primary residence;
- (3) Will not give or execute any lien or charge in connection with the purchase of such real estate without the approval of the corporation.

(d) At the time of closing of the qualifying loan, the mortgagee shall furnish to the eligible borrower a commitment, signed by an officer of the mortgagee, stating the terms and conditions under which the eligible borrower shall be entitled to receive an allowance from the mortgagee. The terms and conditions to be included in the commitment shall be prescribed by the corporation by rule.

(e) The monthly allowance to be provided under this section shall be the lesser of \$50 or the excess of the monthly payment of principal and interest payable on the qualifying loan over twenty per cent of one-twelfth of the eligible borrower's annual aggregate gross family income. For the purposes of computing the amount of the allowance, the corporation shall determine the family income of the eligible borrower at the time of closing for the qualifying loan; provided that the family income shall be redetermined by the corporation according to rules adopted pursuant to chapter 91 to determine if the allowance should be discontinued.

(f) The eligible borrower shall be required to certify annually the fact that the eligible borrower is occupying the dwelling unit and that it is the eligible borrower's primary residence.

(g) Failure by the borrower to occupy the dwelling unit as the borrower's primary residence shall make all allowance funds paid to the mortgagee on the borrower's account immediately due and payable in accordance with section -144 and shall terminate the borrower's entitlement to future housing opportunity allowances.

**§ -143 Approval and payment of housing allowances.** (a) Prior to the closing of the qualifying loan, the mortgagee may request the corporation to confirm that allowance funds are available to reimburse the mortgagee for all amounts credited under commitments approved by the corporation.

(b) The corporation shall approve any commitment for payment of an allowance if funds are available and if it finds that the commitment, certifications, and all closing documents comply with the conditions of this section and requirements prescribed by the corporation by rule.

(c) The corporation shall pay to each mortgagee holding an approved commitment the allowance credited to the qualified borrower under that commitment. The mortgagee shall report the total dollar amounts of allowances so credited on a form prescribed by the corporation.

**§ -144 Repayment of allowance.** (a) The eligible borrower shall repay to the corporation all allowance funds paid to the mortgagee on the borrower's account plus interest to the date of repayment at the rate established by the corporation.

(b) Repayment shall be due at the end of the tenth year after the closing of the qualifying loan or on or before the date of conveyance if the eligible borrower conveys the dwelling unit pursuant to section -221.

(c) In the event the dwelling unit is not conveyed after the tenth year, the eligible borrower may repay the loan account balance to the corporation over a five-year period at an interest rate established by the corporation. The corporation may approve such a loan based on the capacity of the eligible borrower at that time.

(d) To secure the indebtedness of the allowance in the event the dwelling unit is not conveyed, the borrower shall execute a promissory note or any other instrument of indebtedness as the corporation may require.

**§ -145 Eligibility of spouse or dependents.** Any spouse or dependent of the eligible borrower to whom a dwelling unit approved for allowance descends by devise or by the laws of descent who would qualify as an eligible borrower under rules adopted by the corporation is eligible to continue to receive the allowance for the remaining term of such allowance, and shall be liable to repay such allowance as provided in section -144 upon any subsequent conveyance but not later than the end of the tenth year.

**§ -146 Financing.** For purposes of this subpart, the corporation may use funds available from general obligation bonds of the State issued under section -203.

#### F. Loan Participation Program

**§ -150 Participation in loans.** The corporation may make participation loans in accordance with this subpart of up to fifty per cent of the principal amount of a loan made to a qualified borrower by a mortgage lender who is unable to otherwise lend a borrower sufficient funds at reasonable rates for the purchase or renovation of a residential property; provided

that at no time shall the corporation's total outstanding level of participation exceed the sum of \$10,000,000.

§ -151 **Loans qualifying for participation loans.** Except as otherwise provided, the requirements for a loan to qualify under this subpart shall be the same as those prescribed for loans qualifying for mortgage loan guarantee under subpart II.G. The mortgage lender's share of the loan shall bear interest at a rate not more than one and one-half per cent higher than the interest on the corporation's share. The first mortgage document shall be held by the mortgage lender. Division of interest in the collateral shall be in proportion to the participation of the corporation and the mortgage lender.

§ -152 **Qualification of borrowers.** (a) The corporation shall not participate in any loan unless the borrower to whom the private lender is willing to make the loan:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is at least eighteen years of age;
- (3) Is a bona fide resident of the State of one year or more;
- (4) Has a bona fide intent to reside in the residential property to be purchased;
- (5) Has the ability to repay the loan; and
- (6) Has a gross income of not more than \$20,000 a year (the gross income of the borrower's spouse, if the borrower is married, shall be counted, except where the borrower is living separate and apart from the borrower's spouse under a decree of a court of competent jurisdiction) or is fifty-five years of age or more, or is a person displaced by government action other than eviction due to the person's fault.

(b) No person who owns in fee simple or in leasehold any other residential property within the State, or who has a loan made under this program shall be eligible to become a qualified borrower. A person shall be deemed to own a residential property if the person, the person's spouse or both the person and the person's spouse (unless separated and living apart under a decree of a court of competent jurisdiction) owns such residential property.

§ -153 **Application and review of application.** (a) All applications for participation loans shall be made on forms prescribed by the corporation. It shall be signed both by the borrower and the lender. The application shall contain a description of the residential property to be purchased, the purchase price, and the amount of the downpayment to be made by the borrower. It shall contain a statement of the mortgage lender indicating the portion of the total loan it is able to meet. The application shall be processed by the mortgage lender and forwarded to the corporation.

(b) The corporation shall review all applications and determine the corporation's share of the loan, provided that it shall approve for participation only those loans to be made to persons who qualify under section -152 and the rules adopted by the corporation pursuant to chapter 91. The corporation may insure the private lender's share of the loan as provided in section -160.

(c) When an application for a mortgage insurance loan has been approved by the corporation, the corporation's share shall be paid to the mortgage lender for disbursement to the borrower. The mortgage lender shall collect all payments from the borrower and otherwise service the loan.

§ -154 **Service fee.** Out of the interest collected for the State, the private lender may deduct a service fee of one-half of one per cent of the

unpaid principal balance of the corporation's portion of the loan as a fee for servicing the corporation's portion of the loan; provided that this fee shall not be added to any amount which the borrower is obligated to pay.

§ -155 **Mortgage lender take-over.** The mortgage lender, with the approval of the corporation, may take over a larger percentage or the full principal balance of the loan at any time that it has determined, to the satisfaction of the corporation, that the borrower is able to pay any increased interest charges resulting.

§ -156 **Default.** When the mortgage lender or the corporation deems that foreclosure proceedings are necessary to collect moneys due from the borrower, it shall notify the other and the proceeding shall be promptly initiated by the mortgage lender, unless the corporation elects to request an assignment of the loan. Within thirty days of the notification by either the mortgage lender or the corporation to the other, the corporation may request an assignment of the loan on payment in full of the mortgage lender's share of the principal balance due. Foreclosure proceedings shall be held in abeyance in the interim.

§ -157 **Restrictions on borrower.** Every loan made under this part shall be subject to the following conditions:

- (1) The borrower shall expend no portion of the loan for purposes other than to purchase a residential property.
- (2) The residential property purchased with the loan and mortgaged to the mortgage lender to secure the repayment of the loan shall not be sold or assigned without the prior written approval of the corporation and the mortgage lender.
- (3) The borrower shall pay when due all taxes, liens, judgments, or assessments which may be lawfully levied against the residential property and all costs and expenses of any foreclosure of the mortgage brought by the private lender.
- (4) The borrower shall maintain fire and casualty insurance in such amounts equal to the replacement value of all improvements and insurable portions of the residential property with such insurance company authorized to do business in the State. All proceeds of such insurance shall be made payable to the corporation and the mortgage lender as their respective interests may appear at the time of any loss or damage. Subject to the rules of the corporation, in the event of any loss or damage to the improvement or property covered by such insurance, the proceeds received by the corporation and the mortgage lender shall be applied toward the reconstruction of the improvement or property destroyed or damaged.
- (5) The borrower shall maintain the improvements on the residential property in good repair.

All of the above conditions shall be deemed to be a part of any mortgage executed by the borrower to the mortgage lender, regardless of whether or not they are expressly incorporated in the mortgage document. The mortgage lender may impose other conditions in its mortgage, provided that the form of the mortgage has the prior approval of the corporation.

§ -158 **Arbitrage provisions; interest rate.** (a) Any other provision of the law to the contrary notwithstanding, neither the corporation nor the director of finance shall make loans or purchase mortgages with the proceeds of general obligation bonds of the State or from a revolving fund established or maintained with the proceeds of such bonds, at a rate of interest which

would cause any general obligation bond of the State to be an "arbitrage bond", as defined in the Internal Revenue Code of 1954, as amended, of the United States of America.

(b) The rates of interest on loans made under this subpart shall be established by the corporation, with the approval of the director of finance, after each sale of general obligation bonds of the State, the proceeds of which are to be used for the purposes of this subpart. In the event that no such sale intervenes in a twelve-month period after the last rate fixing, the corporation may review the then existing rates on loans made under this subpart and retain the existing rate or, with the approval of the director of finance, establish different rates.

(c) The director of finance shall approve such rates so as to produce up to but not in excess of the maximum yield to the State permitted under the United States Internal Revenue Code of 1954, as amended, on the assumption that the general obligation bonds, the proceeds of which are to be used for the purposes of this subpart, would otherwise be "arbitrage bonds" under that section were such maximum yield to be exceeded. The establishment of the rates of interest shall be exempt from chapter 91.

### G. State Mortgage Guarantee Program

§ -160 State mortgage guarantee. (a) The corporation may guarantee the top twenty-five per cent of the principal balance of real property mortgage loans of qualified single-family or multi-family housing; a maximum of one hundred per cent of the principal balance of real property mortgage loans of qualified single-family housing under section 213 of the Hawaiian Homes Commission Act; up to one hundred per cent of the principal balance of real property mortgage loans of single-family or multi-family developed under self-help or shell housing programs; plus the interest due thereon, made to qualified borrowers by qualified private lenders; provided that at no time shall the corporation's liability, contingent or otherwise, on such guarantees exceed \$10,000,000. For the purposes of this section, the term "self-help housing program" means development or conservation of housing in which prospective homeowners have contributed labor, materials, or real property; provided that at least two-thirds of the participating homeowners are qualified by income for assistance under this subpart; and provided further that the program is carried out under sponsorship of a nonprofit community organization. For the purposes of this section, the term "shell housing program" means development of housing which is habitable but unfinished and can be completed or expanded; provided that at least one hundred per cent of the participating homeowners are qualified by income for assistance under this chapter; and provided further that the program is carried out under sponsorship of a public nonprofit or private organization.

(b) The loans shall be secured by a duly recorded first mortgage upon the fee simple or leasehold interest of the borrower in the single-family or multi-family dwelling owned and occupied by the borrower and the borrower's permitted assigns. Private lenders shall include all banks, savings and loan associations, mortgage companies, and other qualified companies and trust funds whose business includes the making of loans in the State.

(c) Loans secured under this section shall be limited to qualified single-family and multi-family housing in accordance with rules adopted by the corporation.

(d) To be eligible for loans under this section, a qualified borrower shall be:

- (1) A citizen of the United States or a resident alien;
- (2) A sound credit risk with ability to repay the money borrowed;
- (3) Qualified under the rules adopted by the corporation; and
- (4) Willing to comply with the rules as may be adopted by the director of finance.

The corporation shall process all applications and determine who is a qualified borrower under this chapter.

(e) When the application for an insured loan has been approved by the corporation, the director of finance shall issue to the lender a guarantee for that percentage of the loan on which it guarantees payment of principal and interest. The private lender shall collect all payments from the borrower and otherwise service the loan.

(f) In return for the corporation's guarantee, the private lender shall remit out of interest collected an insurance fee as may be established by the corporation. The funds remitted shall be placed in the state mortgage guarantee fund provided for in subsection (k).

(g) When any installment of principal and interest has been due for sixty days and has not been paid by the borrower, the private lender may file a claim for the guaranteed portion of the overdue payments with the director of finance who may then authorize vouchers for these payments, thereby acquiring a division of interest in the collateral pledged by the borrower in proportion to the amount of the payment. The director of finance shall be reimbursed for any amounts so paid plus the applicable interest rate, where payment is collected from the borrower.

(h) If there is any default in any payment to be made by the borrower, the lender shall notify the director of finance within fifteen days. Should the lender deem that foreclosure proceedings are necessary to collect moneys due from the borrower, it shall so notify the director of finance. Within thirty days of either notification, the director of finance may elect to request an assignment of the loan on payment in full to the lender of the principal balance and interest due. Foreclosure proceedings shall be held in abeyance in the interim.

(i) Every qualified borrower who is granted a loan under this section shall comply with the following conditions:

- (1) Extend no portion of the qualified borrower's loan for purposes other than those sanctioned by the corporation;
- (2) Not sell or otherwise dispose of the mortgage property except upon the prior written consent of the director of finance, and except upon such conditions as may be prescribed in writing by the private lender;
- (3) Undertake to pay when due all taxes, liens, judgments, or assessments which may be lawfully assessed against the property mortgaged, together with cost and expense of any foreclosure of such mortgage;
- (4) Keep insured to the satisfaction of the private lender all improvements and other insurable property covered by the mortgage. Insurance shall be made payable to the mortgagee as its interest may appear at the time of the loss. At the option of the private lender, subject to the regulations and standards of the corporation, sums so received may be used to pay for reconstruction of the improvements destroyed, or for decreasing the amount of the indebtedness;
- (5) Keep the improvements in good repair;

- (6) All of the above conditions shall be held and construed to be a provision of any mortgage executed by virtue of this section whether appearing as a provision of the mortgage or not; and
- (7) The private lender may impose such other conditions in its mortgage, provided the form of such mortgage has the prior approval of the corporation.

(j) Loans guaranteed and made under this subpart shall be repaid in accordance with a payment schedule specified by the private lender with payments applied first to interest and then to principal. Additional payments in any sums, the payment of the entire principal, may be made at any time within the time period of the loan. The private lender may for satisfactory cause and at its discretion extend the time within which the installments of principal may be made for a period not to exceed two years.

(k) There is created a special fund to be known as the "state mortgage guarantee fund". All interest and fees collected under this subpart by the director of finance and the corporation shall be deposited into this fund. The purpose of the fund is to guarantee payment of loans made under this subpart and to carry on the operations of the director of finance and the corporation in administering and granting loans under this subpart. All disbursements from the state mortgage guarantee fund shall be paid out on vouchers approved by the director of finance and warrants signed by the comptroller.

**§ -161 Mortgage guaranty agreements.** (a) In order to induce appropriate officials of any agency or instrumentality of the United States to commit to insure and insure mortgages under the provisions of the National Housing Act, as amended, the corporation may enter into guaranty agreements with such officials whenever:

- (1) The purchaser-mortgagor in question is ineligible for mortgage insurance purposes under the National Housing Act because of credit standing, debt obligation or income characteristics;
- (2) The purchaser-mortgagor in question is a "displaced person" as defined in chapter 111 and the guaranty agreement will enable the purchaser-mortgagor to obtain suitable replacement housing in accordance with that chapter; and
- (3) The corporation finds that such purchaser-mortgagor would be a satisfactory credit risk with ability to repay the mortgage loan if the purchaser-mortgagor were to receive budget, debt, management and related counseling.

Such guaranty agreements may obligate the corporation to:

- (1) Provide or cause to be provided such counseling; and
  - (2) Indemnify an agency or instrumentality of the United States for a period not to exceed five years for any loss sustained by such agency or instrumentality by reason of insurance of a mortgage.
- (b) The total of guaranties made pursuant to this section and guaranties made pursuant to section -160 shall not exceed \$10,000,000.

#### H. Downpayment Loan Program

**§ -170 Downpayment loans.** (a) The corporation may make direct downpayment loans to qualified borrowers. The downpayment loan to any borrower shall not exceed thirty per cent of the purchase price of the residential property or \$15,000, whichever is less.

(b) The repayment of every downpayment loan shall be secured by a duly recorded second mortgage executed by the borrower to the State on the residential property purchased with the downpayment loan.



(c) The principal of the downpayment loan, together with accrued interest, shall be repaid by the borrower in such installments as determined by the corporation over a period not exceeding forty years. The period over which the principal and interest shall be paid need not coincide with the period over which the loan from the mortgage lender for the balance of the purchase price must be repaid. The borrower may repay the whole or any part of the unpaid balance of the downpayment loan, plus accrued interest at any time without penalty.

(d) The corporation may secure the services of the mortgage lender who loans to the borrower the balance of the purchase price of the residential property or the services of any other mortgage lender doing business in the State to collect, in behalf of the State, the principal and interest of the downpayment loan and otherwise to service the downpayment loan, for a servicing fee not in excess of then prevalent loan servicing fees. For this purpose, the corporation may assign the second mortgage held by it to secure the repayment of the downpayment loan to such mortgage lender.

**§ -171 Qualifications for downpayment loan.** (a) No person shall be qualified for a downpayment loan unless the person:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is at least eighteen years of age;
- (3) Is a bona fide resident of the State of one year or more;
- (4) Has a bona fide intent to reside in the residential property to be purchased;
- (5) Is accepted by a mortgage lender as a person to whom it is willing to lend money for the purchase of the residential property provided the required downpayment is made; and
- (6) Has the financial capacity to repay the downpayment loan.

(b) No person who owns in fee simple or in leasehold any other residential property within the State, shall be eligible to become a borrower under this section. A person shall be deemed to own a residential property if the person, the person's spouse or both the person and person's spouse (unless separated and living apart under a decree of a court of competent jurisdiction) own such residential property.

**§ -172 Restrictions on borrower.** Every loan made under this subpart shall be subject to the following conditions:

- (1) The borrower shall expend no portion of the borrower's downpayment loan for purposes other than to make a downpayment for the purchase of a residential property.
- (2) The residential property purchased with the downpayment loan and mortgaged to the State to secure the repayment of the loan shall not be sold or assigned without the prior approval in writing of the corporation and the first mortgage lender.
- (3) The borrower shall pay when due all taxes, liens, judgments, or assessments which may be lawfully levied against the residential property and all costs and expenses of any foreclosure of the mortgage made to the State.
- (4) The borrower shall maintain fire and casualty insurance in such amounts equal to the replacement value of all improvements and insurable portions of the residential property with an insurance company authorized to do business in the State. All proceeds of such insurance shall be made payable to the first mortgage lender and the corporation as their respective interests may appear at the time of any loss or damage. Subject to the rules of the corporation, in the event of any loss or damage to the

improvements or property covered by such insurance, the proceeds receivable by the State shall be applied toward the reconstruction of the improvements or property destroyed or damaged, unless otherwise determined by the corporation on behalf of the State.

(5) The borrower shall maintain the improvements in good repair.

All of the above conditions shall be deemed to be a part of any downpayment mortgage executed under this part, regardless of whether or not they are expressly incorporated in the mortgage document.

§ -173 **Default.** If the borrower defaults in the payment of any installment of principal or interest of the downpayment loan, the corporation shall take all necessary action to collect the delinquent amounts and may, on behalf of the State, take all actions generally allowed holders of mortgages, including the power to foreclose. Upon any foreclosure of the second mortgage, the corporation on behalf of the State, may purchase the interest of the borrower in and to the residential property, take possession thereof and assume all of the obligations of the borrower under the first mortgage held by the private lender and such other liens having priority over the second mortgage as may then exist. On such acquisition of the borrower's interest, the corporation at its option, may pay in full the unpaid balance of the borrower's obligation secured by the first mortgage and other prior liens, repair, renovate, modernize, or improve the residential property, and, with or without clearing the property of all prior mortgages and liens, sell, lease, or rent the property or use or dispose of the same in any manner that the corporation is authorized to do so by law.

### I. Rehabilitation Loan Program

§ -180 **Rehabilitation and renovation of existing housing.** (a) The corporation may make loans to qualified residents for the purpose of rehabilitating or renovating an existing housing unit. Loans under this subpart shall not be in excess of \$10,000, or \$3,500 as prescribed by subsection (h), to any resident or for any housing unit and shall be issued upon execution of a written contract for the performance of the rehabilitation or renovation.

(b) Loans made under this subpart shall be limited to rehabilitating or renovating housing units to meet minimum standards of habitability and all applicable county or state laws. Loans made under this subpart shall be available for rehabilitation or renovation of owner-occupied, single-family and duplex housing.

Applications for loans under this subpart shall be made on forms prescribed by the corporation. The application shall specify the property to be improved, the amount to be loaned, the downpayment to be made by the qualified resident, the schedule of repayment, and such other conditions as are established by the corporation. If the loan is assigned to and serviced by a mortgage lender, the application shall be processed by the mortgage lender and forwarded to the corporation. The corporation shall review all applications and determine the amount of the loan; provided that it shall approve loans only to qualified residents as defined by this subpart. When an application is approved by the corporation, the amount of the loan shall be paid to the mortgage lender for disbursement to the qualified resident, if the loan is assigned to or serviced by a mortgage lender. The mortgage lender shall collect all payments from the qualified resident and otherwise service the loan.

The corporation may establish other minimum requirements which shall be met by owners to qualify for loans, as are conducive to carrying out

this section. The corporation shall establish a system to determine preferences by lot in the event that it receives more qualified applications than it has funds available.

(c) A qualified resident under this subpart means a person who:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is at least eighteen years of age;
- (3) Is the owner and occupant of existing housing otherwise qualified under this subpart;
- (4) Is a bona fide resident of the State and has a bona fide intent to reside in the dwelling unit for which a loan is requested under this section;
- (5) Does not own individually or, when husband and wife are living together, does not own jointly with spouse, and whose spouse does not own any other property in the State which is suitable for dwelling purposes, whether such property is held in fee simple or leasehold;
- (6) Has applied for and has been refused a home improvement loan by at least one bank or other financial institution in the State;
- (7) Is not eligible for a loan, or a combination of grant and loan, in the sum requested from any other program or programs sponsored by the State, the county, or the federal government for which funds are then available;
- (8) Has adjusted family income below the maximum limit established by the corporation; and
- (9) Is, in determination of the corporation, able to repay the loan on terms satisfactory to the corporation.

(d) Applicants shall submit to the corporation plans and specifications for each rehabilitation or renovation project, which, as a condition to the granting of an application, shall be found by the corporation to be in conformity with applicable county codes or ordinances; or approved by the appropriate county authority by permit, exception, variance, waiver, or other means.

(e) Loans received by the qualified resident under this subpart shall be used exclusively and entirely for the planning and financing of rehabilitation and renovation of qualified housing, which shall be completed within two years of the contract date. Any written contract executed pursuant to this subpart shall expressly contain the provisions of this subsection, the form of which shall be established by rules adopted by the corporation.

(f) All rehabilitation or renovation undertaken pursuant to this subpart shall be performed under the supervision of a contractor licensed pursuant to chapter 444; provided this shall not prevent a project from being completed substantially with donated labor under licensed supervision. The owner shall indemnify the corporation for any loss suffered by the corporation as a result of any claim or action arising from a mechanic's or materialman's lien relating to a rehabilitation or renovation project of such owner under this section.

(g) Every loan made under this subpart shall be subject to the following terms and conditions:

- (1) Loans made under this subpart shall be repaid within ten years, in accordance with a payment schedule and at a rate of interest to be specified by the corporation; provided that the rate of interest shall be in conformance with section -158.
- (2) In the event that an owner transfers title to a housing unit rehabilitated or renovated under this section, the outstanding balance of the loan shall be paid at the maximum rate of interest

allowed under paragraph (g)(1); provided that there shall be no prepayment penalty.

- (3) The loan, at the direction of the corporation, may be assigned to and serviced by mortgage lenders doing business in the State at a service fee established by contract between the corporation and the mortgage lender, but in no event will the service fee be greater than the service fee charged by the mortgage lender for similar loans ordinarily made by them.
- (4) When the mortgage lender or the corporation deems that foreclosure proceedings are necessary to collect moneys due from the qualified resident, it shall notify the other and the proceeding shall be promptly initiated by the mortgage lender, unless the corporation elects to request an assignment of the loan. Within thirty days of the notification by either the mortgage lender or the corporation to the other, the corporation may request an assignment of the loan on payment in full of the mortgage lender's share of the principal balance due. Foreclosure proceedings shall be held in abeyance in the interim.

(h) For the purpose of more effectively carrying out this subpart, the corporation may contract with any legally constituted county housing agency to participate in loans under this subpart. Such contract shall specify rules of the administration; provided that no contract shall prevent the county agency from establishing by rule more specific policies for assistance not in conflict with this section. To facilitate the application of elderly citizens in either the lower income or "gap groups" who own their homes and whose needs are for smaller loans that are sufficient to better maintain their homes, if the applicant borrower is otherwise qualified, is fifty-five years of age or older, and is applying for a loan not exceeding \$3,500, then the applicant shall not be required to:

- (1) Submit plans and specifications to the corporation, but in lieu thereof may submit a written statement as to the scope of the intended renovation work, including a cost estimate therefor and evidence of a building permit from the county having jurisdiction;
- (2) Perform the work under the supervision of a contractor licensed pursuant to chapter 444; provided that the corporation shall inspect the premises before the work begins and after completion, for which two inspections the corporation may charge a fee (deductible from the loan) of \$50; or
- (3) Execute a mortgage securing the loan, but may in lieu thereof provide the corporation with a chattel mortgage on personal property, or make an assignment to the corporation of a personal asset or assets, or provide a third party guaranty in a form acceptable to the corporation, which alternative in any case shall provide the corporation with a secondary source of repayment in the event of default.

(i) When requested by the corporation, the director of finance shall issue general obligation bonds of the State pursuant to part I of chapter 39 to effectuate the purposes of this section, subject to prior approval of the governor.

## PART III. HOUSING DEVELOPMENT

## A. General Provisions

§ -200 **Criteria.** In administering this chapter and other laws of the State applicable to the supplying of housing or the assistance in obtaining housing, the corporation shall give preference to those applicants most in need of assistance in obtaining housing, in light of the amount of moneys available for the various programs. In doing so the corporation shall take into consideration the applicant's household income and number of dependents; the age of the applicant; the physical handicaps of the applicant or those living with the applicant; whether or not the present housing of the applicant is below standard; whether or not the applicant's need for housing has arisen by reason of displacement of the applicant by governmental actions; and such other factors as it may deem pertinent.

§ -201 **Powers and duties, generally.** (a) The corporation may develop fee simple or leasehold property, construct dwelling units thereon, including condominiums, planned units and cluster developments, and sell, lease, or rent or cause to be leased or rented, at the lowest possible price to qualified residents of the State, with an eligible developer or in its own behalf, either:

- (1) Fully completed dwelling units with the appropriate interest in the land on which the dwelling unit is located; or
- (2) Units which are substantially complete and habitable with the appropriate interest in the land on which the dwelling unit is located; or
- (3) The land with site improvements (other than the dwelling unit) either partially or fully developed.

(b) The corporation shall require all applicants for the purchase of dwelling units to make application therefor under oath, and may require additional testimony or evidence under oath in connection with any application. The determination of any applicant's eligibility under this chapter by the corporation shall be conclusive as to all persons thereafter dealing with the property; but the making of any false statement knowingly by the applicant or other person to the corporation in connection with any application shall constitute perjury and be punishable as such. The corporation shall establish a system to determine preferences by lot in the event that it receives more qualified applications than it has units available.

(c) The corporation shall adopt upon direction from the governor and for such period as the governor shall authorize, rules on health, safety, building, planning, zoning, and land use which relate to the development, subdivision, and construction of dwelling units in projects in which the State, through the corporation, shall participate; provided that these rules shall not contravene any safety standards or tariffs approved by the public utilities commission; provided further that these rules shall follow existing law as closely as is consistent with the production of lower cost housing with standards which meet minimum requirements of good design, pleasant amenities, health, safety, and coordinated development.

Upon the adoption of such rules they shall have the force and effect of law and shall supersede, for all projects in which the State through the corporation shall participate, all other inconsistent laws, ordinances, and rules relating to the use, zoning, planning, and development of land, and the construction of dwelling units thereon; provided that any rules shall, before becoming effective, be presented to the legislative body of each county in which they will be effective and the legislative body of any county may

## ACT 337

within forty-five days approve or disapprove, for that county, any or all of the rules by a majority vote of its members. On the forty-sixth day after submission any rules not disapproved shall be deemed to have been approved by the county.

(d) The corporation may acquire, by eminent domain, exchange, or negotiation, land or property required within the foreseeable future for the purposes of this chapter. Whenever land with a completed or substantially complete and habitable dwelling or dwellings thereon is acquired by exchange or negotiation, the exchange value or purchase price for each such dwelling, including land, shall not exceed its appraised value. Land or property acquired in anticipation of future use may be leased for the interim period by the corporation for such term and rent as it deems appropriate.

(e) Upon authorization by the legislature, the corporation shall cause the State to issue general obligation bonds to finance:

- (1) Land acquisition;
- (2) The development and improvement of land;
- (3) The construction of dwelling units;
- (4) The purchase, lease or rental of land and dwelling units by qualified residents under this chapter;
- (5) Payment of any services contracted for under this chapter, including profit or recompense paid to partners, and including community information and advocacy services deemed necessary by the corporation to provide for citizen participation in the development of housing projects, the implementation of this chapter, and the staffing of any citizen advisory committee the corporation may establish;
- (6) The cost of repurchase of units under section -221;
- (7) Loans for the rehabilitation and renovation of existing housing; and
- (8) Any other moneys required to accomplish the purposes of this chapter.

(f) Do all things necessary and convenient to carry out the purposes of this chapter.

§ -202 **Additional powers.** Notwithstanding and without compliance with sections 103-7 and 103-22 but with the approval of the governor, the corporation may enter into and carry out agreements and undertake projects or participate in projects authorized by this chapter.

§ -203 **Bond financing.** The director of finance may issue general obligation bonds and short term project notes of the State in the aggregate amount not to exceed \$105,000,000 for the dwelling unit revolving fund created by section -204.

Pending the receipt of funds from the issuance and sale of such bonds and notes, the amount required for the purposes of this chapter shall be advanced from the general fund of the State. Upon the receipt of the bond or note funds, the general fund shall be reimbursed. The director of finance may sequester and separate the proceeds from sale of the bonds and notes into separate funds and the amounts in either fund may be used for any of the purposes set forth in this chapter.

§ -204 **Dwelling unit revolving fund.** There is created a dwelling unit revolving fund. The funds appropriated for the purpose of this chapter and all moneys received or collected by the corporation under this chapter shall be deposited in the revolving fund. The proceeds in the fund shall be used to reimburse the general fund to pay the interest on general obligation bonds

issued for the purposes of this chapter, for the necessary expenses in administering the chapter, and for carrying out the purposes of this chapter, including, but not limited to, the expansion of community facilities constructed in conjunction with housing projects for elderly persons, and supplementing building costs, federal guarantees required for operational losses, and all things required by any federal agency in the construction and receipt of federal funds for housing projects for the elderly.

**§ -205 Exemption from general excise taxes.** (a) The corporation may certify for exemption from general excise taxes any qualified person or firm involved with a newly constructed or rehabilitated project developed under this chapter or chapter 356, or section 46-15.1.

(b) In accordance with rules established by the corporation, existing low and moderate income housing projects receiving government assistance under an agreement with a governmental body that regulates rents and operations of the projects may receive an exemption annually upon review and certification by the corporation for any qualified period. The corporation shall notify the department of taxation of any such certification provided to existing projects.

(c) All claims for exemption under this section shall be filed with and certified by the corporation and forwarded to the department of taxation. Such exemption as filed and approved, shall not be considered a subsidy for the purpose of this chapter.

(d) For the purpose of this section, "government assistance" means assistance under a low or moderate income housing program from the State or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise which is approved by the corporation.

**§ -206 Exemption from tax on income and obligations.** Income earned and obligations issued by a nonprofit entity determined to constitute a "public housing agency" pursuant to section 3(6) of the United States Housing Act of 1937, as amended, and which income and obligations are declared by the United States Department of Housing and Urban Development to be exempt from all taxation imposed by the United States pursuant to section 11(b) of such Act shall be exempt from all taxation now or hereafter imposed by the State.

## **B. Development of Housing Projects**

**§ -210 Housing development; exemption from statutes, ordinances, charter provisions, rules.** (a) The corporation may develop, on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon; provided that:

- (1) The corporation finds the project is consistent with the purpose and intent of this chapter, and meets minimum requirements of health and safety;
- (2) The development of the proposed project does not contravene any safety standards or tariffs approved by the public utilities commission for public utilities; and
- (3) The legislative body of the county in which the project is to be situated shall have approved the project.

- (A) The legislative body shall approve or disapprove the project within forty-five days after the corporation has submitted the preliminary plans and specifications for the project to the legislative body. If on the forty-sixth day a project is not disapproved, it shall be deemed approved by the legislative body.
  - (B) No action shall be prosecuted or maintained against any county, its officials, or employees, on account of actions taken by them in reviewing, approving, or disapproving the plans and specifications.
  - (C) The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and specifications for the project shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of section 501-85 and 502-17, the executive director of the corporation or the responsible county official may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and registrar.
- (4) The land use commission shall approve or disapprove a boundary change within forty-five days after the corporation has submitted a petition to the commission as provided in section 205-4. If on the forty-sixth day the petition is not disapproved, it shall be deemed approved by the commission.
- (b) For the purposes of this section, "government assistance program" means a housing program qualified by the corporation and administered or operated by the corporation or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise.

**§ -211 Dwelling unit project, construction and sponsorship of.** (a) The corporation, on behalf of the State or with eligible developers and contractors, shall develop real property and construct dwelling units thereon. Qualifications for developers and contractors shall be provided by rules to be adopted by the corporation in accordance with chapter 91. Any person, if qualified, may act as both the developer and the contractor.

(b) In selecting the eligible developers or in contracting any services or materials for the purposes of this chapter, the corporation shall not be subject to the competitive bidding laws.

(c) If working in partnership with an eligible developer, the corporation shall have sole control of the partnership, shall keep all books of the partnership, and shall ascertain all costs of the partnership including the cost of services performed by any other partners and it shall audit the same. The other partners shall perform services for the partnership under the direction of the corporation and shall be reimbursed for all costs relating to the project as certified by the corporation including administrative and overhead costs. Additionally the other partners, upon transfer of title by the corporation to the purchaser, shall be entitled to a guaranteed gross share if the actual cost of the project does not exceed the original project cost. The gross share shall not exceed fifteen per cent of the original project cost pro rated to the dwelling units, less any amount subsidized by the State. Subsidies shall



include unrecovered development and land costs and any other subsidized items as defined in rules to be adopted by the corporation pursuant to chapter 91. The percentage of such share shall be determined by the corporation by contract with the partner based upon the nature of the services rendered by them. For purposes of this subsection, "original project cost" means the original budget of a project as approved by the corporation without modification at a later date.

(d) The corporation may require that performance bonds be posted to the benefit of the State with surety satisfactory to it guaranteeing performance by the other partners, or the State may act as a self-insurer requiring such security, if any, from the other partners, as the corporation shall deem necessary.

**§ -212 Independent development of projects.** (a) In any county, the corporation may enter into agreements for housing projects with an eligible developer if in the corporation's reasonable judgment a project is primarily designed for lower income housing. The agreement may provide for the housing to be placed under the control of the corporation, or to be sold by the corporation or to be sold to the corporation as soon as the units are completed and shall contain such terms, conditions, and covenants as the corporation, by rules deems appropriate, and every agreement shall provide for the developer to furnish a performance bond, in favor of the corporation, assuring the timely and complete performance of the housing project. Sureties on the bond must be satisfactory to the corporation.

(b) The plans and specifications for the project shall:

- (1) Provide for economically integrated housing by stipulation and design; provided that not less than sixty per cent of the units shall be sold in price ranges established by the corporation under this chapter and chapter 91 as being within the purchasing power of lower income purchasers and the balance of the units to be sold at these or other prices; provided further that the variously priced units shall not be segregated and shall be randomly dispersed individually or in clusters throughout the project horizontally, and if applicable, vertically;
- (2) Provide for the sale of all units in fee simple or in leasehold either to the corporation or to the purchaser and in all cases subject to all of the provisions of sections -221, -222, and -223, excepting units sold at market price; and
- (3) Encompass the use of lands adequately suited to the size, design, and types of occupancies designated in subsection (a), properly located for occupancy by the groups for which primarily designed under this section, properly districted for the use intended prior to this application, and appropriately zoned within an urban land use district, or appropriate in its situation and surroundings for more intensive or denser zoning.

(c) The corporation may accept and approve projects independently initiated by private developers which fully comply with subsections (a) and (b). The corporation may review the plans, specifications, districting, and zoning of the project for the purpose of exempting the project from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, development, and improvement of land and the construction, improvement, and sale of homes thereon; provided that the procedures in section -210(1), (2), and (3) have been satisfied.

§ -213 **Private development of projects.** (a) The corporation may enter into contracts with any eligible bidder to provide for the construction of housing. Any such contract shall provide that the housing or housing project shall be placed under the control of the corporation, as soon as the unit is available for occupancy. Any such contract shall also provide that the capital stock of the mortgagor (where the mortgagor is a corporation) be transferred to the corporation, when the housing has been completed. Any such contract shall contain such terms and conditions as the corporation may determine to be necessary to protect the interests of the State. Any such contract shall provide for the furnishing by the contractor of a performance bond and a payment bond with sureties satisfactory to the corporation, and the furnishings of such bonds shall be deemed a sufficient compliance with the provisions of law and no additional bonds shall be required under law. Before the corporation shall enter into any contract as authorized by this section for the construction of housing, it shall invite the submission of competitive bids after advertising in the manner prescribed by law.

(b) Notwithstanding any other provision of law, the corporation is authorized to acquire the capital stock of mortgagors holding property covered by a mortgage guaranty under this chapter and established by this section, and to exercise the rights as holder of such capital stock during the life of such mortgage and, upon the termination of the mortgage, to dissolve the corporation; to guarantee the payment of notes or other legal instruments of such mortgagors; and to make payments thereon. All housing facilities placed under the control of the corporation pursuant to the provisions of this section shall be deemed to be housing facilities under the jurisdiction of the State.

(c) On request by the corporation, the attorney general shall furnish to the corporation, an opinion as to the sufficiency of title to any property on which it is proposed to construct housing, or on which housing has been constructed, under this section. If the opinion of the attorney general is that the title to such property is good and sufficient, the corporation is authorized to guarantee, or enter into a commitment to guarantee, the mortgagee, against any losses that may thereafter arise from the adverse claims to title. None of the proceeds of any mortgage loan hereafter insured shall be used for title search and title insurance costs; provided that if the corporation determines in the case of any housing project, that the financing of the construction of such project is impossible unless title insurance is provided, the corporation may provide for the payment of the reasonable costs necessary for obtaining title search and title insurance. Any determination by the corporation under the foregoing proviso shall be set forth in writing, together with the reasons thereto.

(d) The State shall be authorized to guarantee the repayment of one hundred per cent of the principal and interest of loans from commercial lenders for the purposes of this section pursuant to rules adopted by the corporation which shall conform as closely as is possible to the practices of the federal housing administration in insuring loans under the Capehart Housing Act (Title 42, USC); provided that at no time shall the State's liability, contingent or otherwise, on such guarantees exceed \$10,000,000.

§ -214 **Interim financing of projects.** (a) The corporation may provide interim construction loans to eligible developers. In addition to the rate of interest charged on interim loans the corporation may charge loan commitment fees, to be determined by rules adopted by the corporation.

(b) The interim loans shall be secured by a duly recorded first mortgage upon the fee simple or leasehold interest in the land upon which the

dwelling units are constructed, or the corporation may require such other security interests and instruments as it deems necessary to secure the indebtedness and such other conditions consistent with the production and marketing of dwelling units at the lowest possible prices. The corporation may also set the conditions of a loan in a building and loan agreement between the borrower and the corporation in order to secure the loan and the performance of the borrower to complete the project.

§ -215 **Commercial, industrial, and other uses.** (a) In connection with the development of any residential units under this chapter the corporation may also develop commercial, industrial, and other properties if it determines that such uses can be an integral part of the development and can help to preserve the lifestyles of the purchasers of residences in the development. The corporation may designate any portions of the developments as for commercial, industrial, or other use and shall have all the powers granted under this chapter with respect thereto including the power to by-pass statutes, ordinances, charter provisions and rules of any governmental agency pursuant to section -210. For this purpose the corporation may use any of the funds authorized under this chapter.

(b) The corporation shall establish rules which shall provide the manner of designation of such uses and shall provide that any commercial, industrial, or other properties so developed shall be sold or leased at cost or at economic rents or sales prices. Sale or lease shall be made at cost to owners of commercial, industrial, or other facilities displaced by the corporation. All other leases or sales shall be at economic rents or sales prices determined by the corporation, after appraisal, to be consistent with rents or sales prices in similar locations or terms. The net proceeds of all such sales or leases, less costs to the corporation, shall be deposited in the dwelling unit revolving fund.

The rules may also provide that during the first twenty years after its purchase, any commercial property so developed and sold or leased may be resold or assigned only to the corporation at the original purchase price plus the cost of any improvements made by the purchaser together with simple interest on all of the purchaser's equity in the property at the rate of seven per cent a year. Rules may also provide that ownership of the commercial property cannot be separated from ownership of the residential property in connection with which it was sold or leased.

§ -216 **Employee housing.** The corporation may develop or may assist in the development and construction of employee housing for persons of low and moderate income. The corporation may adopt rules and prescribe terms and conditions to carry out the purpose of this section.

§ -217 **Hawaii development revolving fund.** (a) There shall be a revolving fund to be known as the Hawaii development revolving fund which shall be administered by the corporation. All repayments of principal and interest on loans made by the corporation from the fund shall be placed in the Hawaii development revolving fund to be used for the purposes of this section.

(b) The corporation may make loans, either before or after final subdivision approval, to cover planning, development, and initial costs, including the costs of options, agreements of sale, and downpayments, of commencing projects to provide low or moderate cost housing through government assistance programs.

(c) In managing the fund, the corporation may cooperate with other public and private nonprofit agencies or entities and may enter into loan

agreements with them. The necessity for the extent and nature of security required for a loan shall be determined by the corporation. The security may include, but is not limited to, a borrowing resolution of the nonprofit entity.

The foregoing powers are subject, however, to the following restrictions and limitations:

- (1) No single loan shall exceed two per cent of the project cost;
- (2) The loan shall be repaid with simple interest in the amount of six per cent per year;
- (3) The moneys loaned shall be used only for the planning, development, and initial costs of commencing projects to provide nonprofit low or moderate cost housing.
- (d) The corporation may adopt rules to carry out the purposes of this section.

(e) For the purposes of this section, "government assistance programs" means housing programs qualified by the corporation and administered or operated by the corporation or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise. For the purposes of this section, a "nonprofit entity" is a corporation, association, or other duly chartered organization registered with the State, which organization has received charitable status under the Internal Revenue Code or as defined by rules adopted by the corporation.

### C. Sale of Dwelling Units

§ -220 Sale, mortgages, agreement of sale, other instruments. (a) The corporation shall sell completed dwelling units or dwelling units which are substantially completed and habitable, developed and constructed hereunder, to qualified residents in fee simple, or shall cause them to be leased or rented to qualified residents, at a price or rental based on costs as determined by the corporation; provided that the corporation may retain such units as necessary in a project for lease or rental to nonprofit community organizations for community activity or facility purposes. The gross share to the other partners or contract payments and any amounts subsidized by the State, including but not limited to the land, need not be counted as cost so as to increase the price. Such may be borne by the State, under rules subject to reimbursement upon sale as provided for in section -221.

(b) If a qualified purchaser is unable to obtain sufficient funds at reasonable rates from private lenders, the corporation, by way of mortgage, agreement of sale, or other instrument to secure the indebtedness, may loan to the purchaser up to one hundred per cent of the purchase price. The purchaser in such event shall execute with the corporation an agreement of sale or mortgage or other instrument under the terms of which the unpaid principal and the interest thereon shall be paid in monthly installments over a period of not more than forty years.

(c) Every mortgage, agreement of sale, other instrument to secure the indebtedness, or instrument of indebtedness executed by the corporation may contain such other provisions as are usually found in such instruments and shall provide that the purchaser may repay the whole or any part of the unpaid balance of the purchase price plus accrued interest at any time without prepayment penalty.

(d) If the purchaser defaults on the payment of any loan, the corporation shall take all necessary action to collect the delinquent principal and

interest on the loan and may take all actions allowed to holders of obligations, including the power to repossess, lease, rent, repair, renovate, modernize, and sell the property foreclosed, subject to the restrictions hereinafter described.

(e) The mortgages, agreements of sale, and other instruments of indebtedness may, at the direction of the corporation, be assigned to and serviced by commercial banks and other lending institutions doing business in the State at a fee of not more than one-half of one per cent of the amount loaned to the purchaser.

**§ -221 Dwelling units; restrictions on transfer, waiver or restrictions.** (a) Except for dwelling units which are financed under a federally subsidized mortgage program, the following restrictions shall apply to the transfer of dwelling units purchased from the corporation, whether on fee simple or leasehold property:

- (1) For a period of ten years after the purchase, whether by lease, assignment of lease, deed, or agreement of sale, if the purchaser wishes to transfer title to the dwelling unit and the property or the lease, the corporation shall have the first option to purchase the unit and property or lease at a price which shall not exceed the sum of:
  - (A) The original cost to the purchaser;
  - (B) The cost of any improvements added by the purchaser; and
  - (C) Simple interest on the purchaser's equity in the property at the rate of seven per cent a year.

The corporation may purchase the unit either outright, free and clear of all liens and encumbrances, or by transfer subject to an existing mortgage.

If by outright purchase, the corporation shall insure that all existing mortgages, liens, and encumbrances are satisfactorily paid by the purchaser.

In any purchase by transfer subject to an existing mortgage, the corporation shall agree to assume and to pay the balance on any first mortgage created for the purpose of enabling the purchaser to obtain funds for the purchase of the unit and any other mortgages which were created with the approval and consent of the corporation. In such cases, the amount to be paid to the purchaser by the corporation shall be the difference between the above-mentioned price and the principal balance of all mortgages outstanding and assumed at the time of transfer of title to the corporation.

- (2) After the end of the tenth year from the date of purchase, or execution of an agreement of sale, the purchaser may sell the unit and sell or assign the property to any person free from any price restrictions; provided that the purchaser shall be required to pay to the corporation the sum of:
  - (A) The balance of any mortgage note, agreement of sale, or other amount owing to the corporation;
  - (B) Any subsidy made by the corporation in the acquisition, development, construction, and sale of the unit, and any other amount expended by the corporation not counted as cost under section -220 but charged to the dwelling unit

by good accounting practice as determined by the corporation whose books shall be prima facie evidence of the correctness of the costs; and

(C) Interest on the subsidy and any other amount expended at the rate of seven per cent a year computed as to the subsidy, from the date of purchase, or execution of the agreement of sale, and as to any amount expended, from the date of expenditure; provided that if any proposed sale or transfer will not generate an amount sufficient to pay the corporation the sum as computed under this paragraph, the corporation shall have the first option to purchase the dwelling unit at a price which shall not exceed the sum as computed under paragraph (1).

(b) The restrictions prescribed in subsection (a) may be waived if:

- (1) The purchaser wishes to transfer title to the dwelling unit and the property or lease by devise or through the laws of descent to a family member who would otherwise qualify under rules established by the corporation; or
- (2) The corporation determines, in accordance with adopted rules, that the sale or transfer of a dwelling unit would be at a price and upon terms that preserves the intent of this section without the necessity of the State to repurchase the unit; provided that the restrictions prescribed in subsection (a) shall be reinstated after the transfer of title and shall be fully effective and applicable to the transferee.

(c) The restrictions prescribed in subsection (a) shall be automatically extinguished and shall not attach in subsequent transfers of title when a mortgage holder becomes the owner of dwelling unit and the land or leasehold interest pursuant to a mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced. Any law to the contrary notwithstanding, a mortgagee under a mortgage covering a dwelling unit and land or leasehold interest encumbered by the first option to purchase in favor of the corporation, prior to commencing mortgage foreclosure proceedings, shall notify the corporation of (1) any default of the mortgagor under the mortgage within ninety days after the occurrence of the default, and (2) any intention of the mortgagee to foreclose the mortgage under chapter 667. The corporation shall be a party to any foreclosure action, and shall be entitled to all proceeds remaining in excess of all customary and actual costs and expenses of transfer pursuant to default, including liens and encumbrances of record; provided that the person in default shall be entitled to an amount which shall not exceed the sum of amounts determined pursuant to subsection (a)(1)(B) and (C) and the purchaser's equity in the property.

(d) The provisions of this section shall be incorporated in any deed, lease, mortgage, agreement of sale, or any other instrument of conveyance issued by the corporation.

§ -222 Dwelling units; restrictions on use. (a) A dwelling unit purchased from the corporation shall be occupied by the purchaser at all times during the ten-year restriction period set forth in section -221.

(b) From time to time the corporation may submit a verification of owner-occupancy form to the purchaser. Failure to respond to the verification in a timely manner or violation of subsection (a) shall be sufficient reason for the corporation, at its option, to purchase the unit as provided in section -221(a)(1) or (2), as applicable.

(c) Any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the corporation shall expressly contain the restrictions on use prescribed in this section.

(d) The restrictions prescribed in subsection (a) shall be automatically extinguished and shall not attach in subsequent transfers of title as prescribed in section -221(c).

**§ -223 Restrictions on use, sale and transfer of dwelling units; effect of amendment or repeal.** (a) Restrictions on the use, sale and transfer of dwelling units shall be made as uniform as possible in application to purchasers of all units, and restrictions shall be conformed with agreement of the purchaser to reflect change or repeal made by any subsequent legislative act, ordinance, rule or regulation. Dwelling unit purchasers shall be permitted at their election to sell or transfer units subject to restrictions in effect at the time of their sale or transfer.

(b) The corporation, any other department of the State, or any county housing agency maintaining restrictions, through contract, deed, other instrument, or by rule, shall notify purchasers of any substantial change in restrictions made by law, ordinance, rule or regulation not more than one hundred eighty days after a change in restrictions, and such notice shall clearly state the enacted or proposed new provisions, the date or dates upon which they are to be effective, and offer to each purchaser of dwelling units constructed and sold prior to such effective date an opportunity to modify the existing contract or other instrument to incorporate the most recent provisions. The notice shall be published at least three times in a newspaper of general circulation in the State for state agencies and at least three times in a county newspaper for county agencies.

(c) Where the restrictions on transfer of property apply for a period of time, the period of time shall not be increased beyond the date calculated from the date of original purchase.

(d) No dwelling unit purchaser shall be entitled to modify the restrictions on use, transfer, or sale of the dwelling unit, without the written permission of the holder of a duly-recorded first mortgage on the dwelling unit and the owner of the fee simple or leasehold interest in the land underlying the unit, unless the holder of the first mortgage or the owner is an agency of the State or its political subdivisions.

(e) This section shall apply to all dwelling units developed, constructed, and sold pursuant to this chapter and similar programs in the State or its political subdivisions and which are sold on the condition that the purchaser accepts restrictions on the use, sale, or transfer of interest in the dwelling unit purchased.

(f) The provisions of this section shall be incorporated in any deed, lease, instrument, rule, or regulation relating to restrictions on use, sale or transfer of dwelling units, entered into after June 20, 1977.

#### **D. Housing for Elderly Persons (Reserved)**

### **VI.<sup>1</sup> MISCELLANEOUS PROVISIONS**

**§ -240 Quitclaim deeds.** Unless otherwise provided by law, the corporation shall issue quitclaim deeds and leases whenever it conveys, transfers, sells, or assigns any property developed, constructed or sponsored under this chapter."

## ACT 337

SECTION 16. Chapters 111, 516, and 519, Hawaii Revised Statutes, are amended by substituting the words "housing finance and development corporation" wherever the words "Hawaii housing authority" appear.

SECTION 17. All rights, powers, functions, and duties previously conferred on the Hawaii housing authority by any provision of chapters 111, 356, 359, 359G, 516, and 519, Hawaii Revised Statutes, which are transferred to or conferred upon the housing finance and development corporation by this Act shall be performed and enforced by the corporation in the same manner as the Hawaii housing authority was previously authorized, entitled, or obligated.

All rules, regulations, policies, procedures, guidelines, and other material adopted or developed by the Hawaii housing authority to implement provisions of the Hawaii Revised Statutes which are reenacted or made applicable to the corporation by this Act, in effect on the effective date of this Act, shall remain in full force and effect for not more than twelve months after the effective date of this Act, unless adopted by the corporation pursuant to chapter 91, Hawaii Revised Statutes. In that interim, every reference to the Hawaii housing authority in those rules, regulations, policies, procedures, guidelines, and other material is amended to refer to the housing finance and development corporation.

All deeds, leases, contracts, loans, agreements, or other documents executed or entered into by or on behalf of the Hawaii housing authority pursuant to the provisions of the Hawaii Revised Statutes, which are reenacted or made applicable to the corporation by this Act, shall remain in full force and effect. After the effective date of this Act, every reference to the Hawaii housing authority therein shall be construed as a reference to the housing finance and development corporation.

SECTION 18. **Transfer of personnel.** Except as provided in section 19 of this Act, all officers and employees whose functions are transferred to or conferred upon the housing development and finance corporation by this Act shall be transferred with their current functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act. No officer or employee of the State shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act.

In the event that an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department of personnel services or the governor.

SECTION 19. Notwithstanding the provisions of section -3 in section 15 of this Act, three of the six initial public members of the board of directors of the housing development and finance corporation shall be selected by the governor from among the public members of the Hawaii housing authority. Notwithstanding the provisions of section 26-34, Hawaii Revised Statutes, the three public members of the corporation's board of directors selected by the governor from the Hawaii housing authority shall serve for no more than the remainder of their Hawaii housing authority terms; provided that their combined membership on both boards shall not



exceed eight consecutive years. The vacancies on the Hawaii housing authority which result from the governor's selection of the three public members of the corporation under this section shall be filled as provided by section 26-34, Hawaii Revised Statutes.

**SECTION 20. Transfer of records, equipment, authorization, and other property.** All appropriate records, equipment, files, supplies, contracts, books, papers, documents, maps, authorizations, and other property heretofore made, used, acquired, or held in conjunction with functions transferred by this Act shall be transferred with the functions to which they relate.

**SECTION 21. Transfer of funds.** All funds appropriated for the 1987-89 fiscal biennium, directly or indirectly, relating to the functions, programs, or organizational segments transferred under this Act shall be appropriately transferred to the department of human services with the functions, programs, or segments to which they relate, or to the department of planning and economic development.

The balances outstanding in and obligations payable from any revolving, special, or trust fund administered by the Hawaii housing authority under parts II and III of chapter 356, part VIII of chapter 359, and chapter 359G, Hawaii Revised Statutes, are transferred to and made the obligations of the revolving, special, or trust funds of the same names established under the new chapter added to the Hawaii Revised Statutes by section 15 of this Act.

**SECTION 22. Federal aid, contract and bond obligations; not impaired.** It is the intent of this Act to neither jeopardize the receipt of any federal aid nor impair the obligation of the State or any agency thereof to persons with which it has existing contracts or to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

**SECTION 23. Conflict with provisions of this Act.** All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform to this Act. All acts passed during this Regular Session of 1987, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless such acts specifically provide that this Act is being amended. Any amendment made by an act of the Regular Session of 1987 to a provision of the Hawaii Revised Statutes administered by the Hawaii housing authority which is reenacted and made applicable to the housing development and finance corporation by the new chapter in section 15 of this Act, shall be an amendment to the new chapter. If S.B. No. 776<sup>2</sup> is enacted, every reference to the Hawaii housing authority shall be amended to refer to the housing development and finance corporation and the provisions of S.B. No. 776<sup>2</sup> shall be inserted into subpart D of part III of the new chapter added by section 15 of this Act. If S.B. No. 1723 or H.B. No. 1512<sup>3</sup> is enacted, every reference to the Hawaii housing authority shall be amended to refer to the housing development and finance corporation and the provisions of S.B. No. 1723 or H.B. No. 1512<sup>3</sup> shall be inserted into subpart C of part II of the new chapter added by section 15 of this Act.

**SECTION 24.** Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>4</sup>

**ACT 338**

SECTION 25. This Act shall take effect on July 1, 1987.

(Approved June 29, 1987.)

**Notes**

1. So in original.
2. Act 354, this volume.
3. Act 205, this volume.
4. Edited pursuant to HRS §23G-16.5.

**ACT 338**

**S.B. NO. 5**

**A Bill for an Act Relating to a Department of Corrections.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 26, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to be appropriately designated and to read as follows:

**“§26- Department of corrections.** (a) The department of corrections shall be headed by a single executive to be known as the director of corrections.

(b) The department of corrections shall be responsible for the formulation and implementation of state policies and objectives for correctional programs and for the administration and maintenance of all correctional facilities and services, including but not limited to the following:

- (1) All facilities within the State for the care and custody of all adults detained and awaiting trial, and adults convicted of felonies and misdemeanors;
- (2) The youth correctional facilities for the care and custody of juveniles adjudicated by the family courts and committed to the department;
- (3) Parole supervision services for juveniles committed to correctional facilities;
- (4) Intake and diagnostic evaluation, including pretrial assessments for the courts, of adult offenders admitted to any correctional facility for placement in an appropriate facility and program prescription;
- (5) Transportation services for defendants who are under the care and custody of the department to and from the courts for court-ordered appearances;
- (6) The development and management of a correctional industries program;
- (7) Systematic analysis of existing and proposed correctional programs, evaluations of the analysis conducted by governmental agencies and other organizations, and recommendations to the governor and the legislature of programs which represent the most effective allocation of resources for correctional programs;
- (8) Qualification for, acceptance, disbursement, or utilization of any private or federal moneys or services available, and contracting for services when required;
- (9) The preparation and submission of an annual report and such other reports as may be requested to the governor and to the

legislature on the implementation of this section and all matters related to corrections; and

- (10) Provision of assistance to and coordination with all public and private agencies providing criminal justice services, including the maintenance of contracts with local, state, and federal officials concerned with criminal justice.

(c) The Hawaii paroling authority, the criminal injuries compensation commission, and the Hawaii criminal justice commission are attached to the department of corrections for administrative purposes only. The functions and authority heretofore exercised by the department of social services and housing relating to adult and juvenile corrections, the intake service centers, and the judiciary relating to the functions of the sheriff's office and judiciary security personnel that relate to the transportation of defendants under the care and custody of a correctional facility for required court appearances, are transferred to the department of corrections established by this section."

2. By amending section 26-4 to read:

"**§26-4 Structure of government.** Under the supervision of the governor, all executive and administrative offices, departments, and instrumentalities of the state government and their respective functions, powers, and duties shall be allocated among and within the following principal departments which are hereby established:

- (1) Department of personnel services (Section 26-5)
- (2) Department of accounting and general services (Section 26-6)
- (3) Department of the attorney general (Section 26-7)
- (4) Department of budget and finance (Section 26-8)
- (5) Department of commerce and consumer affairs (Section 26-9)
- (6) Department of taxation (Section 26-10)
- (7) University of Hawaii (Section 26-11)
- (8) Department of education (Section 26-12)
- (9) Department of health (Section 26-13)
- (10) Department of social services and housing (Section 26-14)
- (11) Department of land and natural resources (Section 26-15)
- (12) Department of agriculture (Section 26-16)
- (13) Department of Hawaiian home lands (Section 26-17)
- (14) Department of planning and economic development (Section 26-18)
- (15) Department of transportation (Section 26-19)
- (16) Department of labor and industrial relations (Section 26-20)
- (17) Department of defense (Section 26-21)
- (18) Department of corrections (Section 26- )"

3. By amending section 26-14 to read:

"**§26-14 Department of social services and housing.** (a) The department of social services and housing shall be headed by a single executive to be known as the director of social services.

(b) There shall be within the department of social services and housing a commission to be known as the board of social services which shall sit in an advisory capacity to the director of social services on matters within the jurisdiction of the department of social services and housing. The board shall consist of ten members, one from each county, other than the county of Kalawao, and five at large, and the director of health as an ex officio nonvoting member.

There shall also be within the department a commission to be known as the board of vocational rehabilitation which shall sit in an advisory capacity to the head of that division charged with the administration of vocational rehabilitation laws and allied services. The board shall consist of eleven members, one from each judicial circuit and four at large, with the directors of health and labor[,], and industrial relations, and the superintendent of education, as ex officio voting members.

(c) The department shall administer programs designed to improve the social well-being and productivity of the people of the State. Without limit to the generality of the foregoing, the department shall concern itself with the problems of human behavior, adjustment, and daily living through the administration of programs of family, child and adult welfare, economic assistance (including costs of medical care), rehabilitation toward self-care and support, delinquency prevention and control, [treatment and rehabilitation of adult and juvenile offenders,] public housing, and other related programs as provided by law.

The Hawaii housing authority, as now constituted by chapter 356 shall be a constituent corporate unit of the department of social services and housing with the director of social services as an additional commissioner, ex officio, of the housing authority, serving for a term consistent with the director's appointment. Notwithstanding any other provisions of this chapter, but subject to the administrative control of the director of social services, the functions, duties, and powers of the housing authority, as heretofore provided by law, shall be vested in the Hawaii housing authority.

[The Hawaii paroling authority is placed within the department of social services and housing for administrative purposes only.]

(d) The functions and authority heretofore exercised by the department of public welfare, the department of institutions (except for Waimano home and the state hospital transferred to the department of health), the boards of prison inspectors, the bureau of sight conservation and work with the blind (except for the transcription services program transferred to the department of education), the council on veterans' affairs, and any other agency of the state or county governments with respect to the assistance and care of the indigent and medically indigent as heretofore constituted are transferred to the department of social services and housing established by this chapter."

4. By amending section 26-52 to read:

"§26-52 Department heads and executive officers. The salaries of the following state officers shall be as follows:

- (1) Effective January 1, 1986, the salary of the superintendent of education shall be \$76,000 a year.
- (2) The salary of the president of the University of Hawaii shall be set by the board of regents, but shall not exceed \$95,000 a year.
- (3) Effective January 1, 1986, the salaries of all department heads or executive officers of the departments of accounting and general services, agriculture, attorney general, budget and finance, commerce and consumer affairs, corrections, Hawaiian home lands, health, labor and industrial relations, land and natural resources, personnel services, planning and economic development, social services and housing, taxation, and transportation shall be \$68,400 a year.
- (4) Effective January 1, 1986, the salary of the adjutant general shall be \$68,400 a year. If the salary is in conflict with the pay and

allowance fixed by the tables of the regular army of the United States, the latter shall prevail.”

SECTION 2. Chapter 352<sup>1</sup>, Hawaii Revised Statutes, is amended by amending the definition of “department” to read as follows:

“Department” means [that portion of the department of social services and housing concerned with matters within the purview of this chapter.] the department of corrections.”

SECTION 3. Chapter 353, Hawaii Revised Statutes, is amended as follows:

1. By amending the title to read:

**“DEPARTMENT OF CORRECTIONS”**

2. By repealing part I in its entirety and substituting therefor a new part to read:

**“PART I. ADMINISTRATIVE STRUCTURE,  
INSTITUTIONS, AND SERVICES**

**§353-1 Definitions; director may delegate powers.** As used in this chapter unless the context clearly indicates otherwise:

“Department” means the department of corrections.

“Director” means the director of corrections; provided that the signing or approval of vouchers and other routine matters may be delegated by the director to any authorized subordinate.

**§353-2 Appointment of director; powers and duties.** (a) The director shall be appointed by the governor in accordance with section 26-31.

(b) The director shall administer the department and supervise the administration of all state correctional facilities and services under the department’s jurisdiction. The director may adopt, amend, or repeal rules pursuant to chapter 91, relating to the conduct and management of such facilities and the care, control, treatment, furlough, and discipline of persons committed to the director’s care. The rules shall be valid and binding upon all inmates, officers, and employees of such institutions, and shall be printed from time to time.

(c) The director shall appoint, subject to chapters 76 and 77, personnel necessary to carry out the functions of the department of corrections.

(d) The director shall establish written standards of conduct and operation to govern each employee, during working hours, involved with the treatment and care of persons detained in or committed to a facility, and require each employee to undergo training sessions to prepare them to comply with the standards.

**§353-3 Special powers and duties.** The director of corrections shall:

- (1) See that the duties of all officers and employees are efficiently and faithfully performed;
- (2) Remain fully informed at all times concerning the health, care, and treatment of detained and committed persons, the sanitary and other conditions affecting the correctional facilities under the director’s jurisdiction, and all other matters within the director’s jurisdiction;
- (3) Cause correctional facilities to be kept in a clean, healthful, and sanitary condition;

- (4) Inquire into and deal justly with all complaints made by detained and committed persons relating to their food, clothing, accommodations, training, education, work, individual correctional plan, or treatment;
- (5) Attend to the purchasing of all supplies, materials, and equipment necessary for the proper maintenance and operation of correctional facilities and for the care and maintenance of detained and committed persons, and see to the proper care, use, and disposition thereof, conformably with law;
- (6) Keep all books, accounts, and records and make such reports as may be required of the director by law;
- (7) Negotiate with private organizations or agencies for participation and cooperation in programs which further the treatment, training, education, and work of committed persons pursuant to law;
- (8) Initiate the individually prescribed correctional plan for committed persons including privileges, placement, treatment, training, education, and work in accordance with law;
- (9) Exert every effort to ensure that each inmate serving a sentence of imprisonment spends a maximum amount of time on the programs set forth in paragraphs (7) and (8). This shall be voluntary if possible. If not, the director shall prescribe a program of involuntary work within the resources of the State and the capability of the inmate;
- (10) Enforce the rules and prescribe the disposition of employees and persons on custodial care for any breach of rules or other misconduct;
- (11) Visit all state correctional facilities at least once in every sixty days and inquire into the management and operation of the same, and the care, education, recreational, vocational training, employment opportunities, and maintenance of persons under custodial care.

The director or a designated agent may transfer any committed person to or from any correctional facility under the director's jurisdiction. Nothing in this section shall be construed to prohibit the transfer of committed persons from any correctional facility to the Hawaii state hospital or other state institutions as provided by law.

**§353-4 Organizational structure.** (a) The department shall be composed of such divisions, branches, and offices as deemed necessary by the director to provide for all inmates:

- (1) Diagnostic evaluation and program prescription services;
- (2) Programs to effectively occupy the inmates' time and to develop positive self-images and useful skills that can prepare the inmates for their return to the community;
- (3) Supervision and counseling services;
- (4) Custodial care; and
- (5) Necessary administrative and staff support services.

(b) The Hawaii paroling authority, the criminal injuries compensation commission, and the Hawaii criminal justice commission shall be attached to the department for administrative purposes only.

**§353-5 Offender release recommendations to the court.** The intake service center shall notify the prosecutor's office of the appropriate county whenever it is recommending to the court that a person who is accused of murder or attempted murder in any degree or a class A felony involving

force or violence against another person be conditionally released or that bail for such person be lowered. Such notice shall be made upon the completion of the intake service center's investigation on the offender's case so as to allow the prosecutor's office of the appropriate county to be present when the court considers the recommendation.

**§353-6 Establishment of community correctional centers.** There shall be a community correctional center for each county under the direction and administration of the director. Any community correctional center may be integrated and operated concurrently with any other correctional facility or facilities. Each center shall:

- (1) Provide residential detention for persons awaiting judicial disposition who have not been conditionally released;
- (2) Provide residential custody and correctional care for committed misdemeanants and for felons committed to indeterminate sentences;
- (3) Provide for committed persons, correctional services, including but not limited to, social and psychiatric-psychological evaluation, employment, counseling, social inventory, correctional programming, and medical and dental services;
- (4) Provide recreational, educational, and occupational training, and social adjustment programs for committed persons;
- (5) Provide referrals to community educational, vocational training, employment, and work study programs; and aftercare, supervisory, and counseling services for persons released from centers.

**§353-7 High security correctional facility.** (a) The director shall maintain a high security correctional facility for the residential care, correctional services, and control of high custodial risk convicted felons or the temporary detention of high custodial risk persons awaiting trial. The high security correctional facility may be integrated and operated concurrently with any other correctional facility or facilities.

(b) The facility shall:

- (1) Provide extensive control and correctional programs for categories of persons who cannot be held or treated in other correctional facilities including, but not limited to:
  - (A) Individuals committed because of serious predatory or violent crimes against the person;
  - (B) Intractable recidivists;
  - (C) Persons characterized by varying degrees of personality disorders;
  - (D) Recidivists identified with organized crime;
  - (E) Violent and dangerously deviant persons; and
  - (F) Persons in need of major medical, psychiatric, or specialized care;
- (2) Provide correctional services including, but not limited to, psychiatric and psychological evaluation, social inventory, correctional programming, and medical and dental services; and
- (3) Provide recreational, educational, occupational training, and social adjustment programs.

**§353-8 Conditional release centers for committed persons.** (a) The director may establish and operate facilities to be known as conditional release centers, either operated separately, or as part of community correctional centers.

(b) The purpose of such facilities is to provide housing, meals, supervision, guidance, furloughs, and other correctional programs for persons committed to the department of corrections and to give committed persons, in selected cases, a chance to begin adjustment to life in a free society and to serve as a test of an individual's fitness for release on parole.

(c) The department shall notify the county prosecutors and police chiefs whenever a committed person is admitted to participate in a work furlough program, conditional release program, or other similar programs. Such notification shall be made in writing to the county prosecutors and police chiefs listing the conditions of such work furlough programs, conditional releases, or such similar programs thirty days prior to the commencement of the work furlough program, conditional release, or other such program.

(d) Additionally, whenever the department admits a committed person who has been convicted of an offense against the person as described in chapter 707, or of an attempt to commit such an offense, to a work furlough program, conditional release program, or other similar programs, it shall give written notice to each victim of the offense, who has made written request for such notice, of the admission of the committed person to the program. Notice shall be given to the victim at the address given on the request for notice or such address as may be provided to the department by the victim from time to time. Neither the failure of any state officer or employee to carry out the requirements of this section nor compliance with it shall subject the State or the officer or employee to liability in any civil action. However, such failure may provide a basis for such disciplinary action as may be deemed appropriate by competent authority.

**§353-9 Establishment of temporary correctional facilities.** The director, with the prior approval of the governor, may establish, from time to time, temporary correctional facilities, if required in conjunction with projects or specialized service authorized by law. The temporary facilities shall be discontinued upon termination of the project.

**§353-10 Intake service centers.** There shall be within the department of corrections, an intake service center for adults in each of the counties, to screen, evaluate, and classify the admission of persons to community correctional centers. Each center shall be directed and managed by a manager and shall be staffed by a team of psychiatrists, social workers, technicians, and other personnel as may be necessary. The director of corrections may appoint full-time or part-time professional and clerical staff or contract for professional services.

The centers shall:

- (1) Provide orientation, guidance, and technical services;
- (2) Provide social-medical-psychiatric-psychological diagnostic evaluation;
- (3) Provide pretrial assessments on adult offenders for the courts and assist in the conduct of presentence assessments on adult offenders and the preparation of presentence reports when requested by the courts;
- (4) Provide correctional prescription program planning and security classification;
- (5) Provide such other personal and correctional services as needed for both detained and committed persons;
- (6) Monitor and record the progress of persons assigned to correctional facilities who undergo further treatment or who participate in prescribed correctional programs; and



- (7) Centralize the collection and maintenance of all information and statistics relating to detained and committed persons under the department's jurisdiction.

**§353-11 Access to correctional facilities and records; instituting of inquiries and securing information.** (a) The Hawaii paroling authority and every member thereof and the director, at all times, shall have free access to all correctional facilities throughout the State, wherein persons convicted of crime are confined, and to all records and books kept in connection therewith, and may institute inquiries about any committed person whether confined or on parole.

All circuit judges, district judges, prosecuting attorneys, sheriffs, police officers, and other court and corrections officials and employees shall furnish, when called upon by the paroling authority or director, all information that may be possessed concerning any committed person.

(b) Upon the refusal of any person in charge of any such correctional facility to give free access thereto or to any records or books kept in connection therewith, or of any such officer, district judge, sheriff, official, or employee to furnish such information, the paroling authority or director may make informal application in writing to any circuit court, reciting the facts and requesting an order directing the person concerned to give such access, or furnish such information and the court, after such reasonable notice to the person as it shall direct, shall proceed to hear the application and shall make such order as may appear proper. In case of the refusal of a circuit judge to furnish information as is required by this section, the paroling authority or director may apply to the supreme court for relief in the same manner as in the case of an application to a circuit court provided in this section. The circuit courts and the supreme court shall have jurisdiction and all powers necessary for the purposes of this section.

(c) In all investigations made by the paroling authority or director and in all proceedings before it or the director, the paroling authority and each member thereof and the director shall have the same powers respecting administering oaths, compelling the attendance of witnesses, and the production of documentary evidence and examining witnesses as are possessed by circuit courts. In case of disobedience by any person of any order of the paroling authority or any member thereof or the director or of any subpoena issued by it or the director or of the refusal of any witness to testify to any matter regarding which the witness may be questioned lawfully, any circuit judge, on application by the paroling authority or a member thereof or the director, shall compel obedience as in case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein. The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the circuit court and shall be paid by the State on vouchers approved by the director out of any appropriation or funds available for the expenses of the department.

**§353-12 Correctional records, documents.** The director shall establish a record of all facts relating to the admission, sentence, commutation, parole, pardon, discharge, escape, death, and correctional programs of any committed person, all actions that are taken for breach of correctional rules, and all other occurrences of note concerning the committed person.

The director or a designated agent shall file all warrants, mittimus, processes, and other official papers, or the attested copies of them, by which any committed person has been committed, paroled, liberated, or retaken and they shall be safely kept in a suitable box or safe. Upon the death, resignation, or removal from office of the person so having custody of the

papers, they shall be delivered, together with all other official records, papers, and journals, to the person's successor or to any other officer or person duly appointed to receive them. In default of such delivery the director or a designated agent, as the case may be, if living, may be held liable for theft as provided by section 708-830, and shall also be civilly liable in damages to any other person who is injured by such nondelivery. If the director or agent, as the case may be, is dead, the civil liability shall attach to such person's personal representatives and the sureties upon such person's official bond, if any has been required jointly and severally. In addition to the civil liability, the person or the person's personal representatives and sureties on the official bond shall forfeit and pay for each such default in delivery the sum of \$200 to be recovered for the use of the general fund of the State.

**§353-13 Examination by medical officer.** The medical officer of a correctional facility shall carefully examine any committed person upon admission and shall establish a medical record and enter therein a statement of the committed person's physical condition upon entry and all subsequent medical treatment and examination made while such person is residing at a state correctional facility.

**§353-14 Cash and clothing furnished discharged committed person, when.** Upon the discharge or parole of any committed person who has undergone a commitment or sentence of more than one year, the committed person shall be furnished by the Hawaii paroling authority, with funds of not more than \$200 and clothing sufficient to meet the committed person's immediate needs. The expenditures so made by the Hawaii paroling authority shall be included among the accounts for cost and maintenance of committed persons.

**§353-15 Transfer of committed persons affected with communicable disease.** Upon written recommendation of the director of health that a committed person determined to have a communicable disease be removed to any hospital, settlement, or place for care and treatment of the communicable disease as designated by the director of health for such specialized care and treatment, the director of corrections may direct any official having custody of any committed person convicted of a felony and incarcerated in a state correctional facility to cause the committed person to be removed to such a place as designated by the director of health, until discharged under chapter 325 or 326 or until the maximum sentence has been served. Any such committed person who may be discharged before the maximum term of imprisonment shall be returned to the state correctional facility from which the committed person was removed. Any such person who has served the maximum sentence before the committed person is discharged under chapter 325 or 326 shall remain in the custody of the director of health until lawfully discharged or removed by direction or permission. Supervision, care, and treatment of the committed person transferred to any hospital, settlement, or place for the care and treatment of the communicable disease shall be governed by the rules, policies, and procedures of the department of health.

**§353-16 Transfer of committed felon to federal institution.** The director, with the approval of the governor, shall effect the transfer of a committed felon to any federal correctional institution for imprisonment, subsistence, care, and proper employment of such a felon.

**§353-17 Committed persons, furlough, employment.** (a) The director or a designated agent may grant furloughs to committed persons with a minimum or lower security classification in any correctional facility of the department for the purpose of employment, social reorientation, education, or training, or any other valid purpose as determined by the director. Special out-of-state furloughs may be granted to those already otherwise furloughed, at no cost to the State, when death or critical illness or injury to the committed person's immediate family occurs. Any committed person who is engaged in private employment, by contract or otherwise, not under the immediate custody of the State shall not be considered an agent or employee of the State. Any moneys earned from employment by such person shall be used to satisfy a restitution order and to reimburse the State for the cost of room and board. If any earned moneys remain after these expenses have been paid, that amount shall be held in an individual account for the committed person.

When an inmate is granted a special out-of-state furlough, the director shall inform the authorities of the state to which the inmate is to be furloughed of the inmate's arrival.

(b) Full power to enforce the terms and conditions of furlough and to retake and reincarcerate a furloughed committed person is conferred upon the director or designated agent. The director or a designated agent, at any time, may issue a warrant authorizing the arrest and return to actual custody of any furloughed committed person for the purpose of ascertaining whether or not the terms and conditions of furlough have been violated so as to justify revoking the furlough and to retake and reincarcerate the furloughed committed person. The administrators of all of the correctional facilities of the State, the chief of police of each county, all police officers of the State, and all correctional facility officials shall execute any such warrant of arrest in like manner as an ordinary criminal process.

(c) Any furloughed committed person retaken and reincarcerated as provided in this chapter shall be confined according to the committed person's sentence for that portion of the committed person's term remaining unserved at the time of furlough, but subsequent furloughs, in the discretion of the director or designated agent, may be granted to a committed person during the life and in respect of sentence.

**§353-18 Director to fix committed persons' compensation.** The director, by rule, may classify, grade, and fix earnings to be paid to committed persons who may be confined in any correctional facility of the State.

**§353-19 Compensation for labor or training by committed persons.** Every committed person, who is working within a state correctional facility or who is in such training or educational programs as the director or a designated agent pursuant to law prescribes, may be allowed such graduated sums of money as the director by rule determines. Any committed person engaged in work, training, or education pursuant to this section or work pursuant to this chapter or chapter 354 shall not be affected by chapter 386.

**§353-20 Custody of moneys; accounts for committed persons, etc.** All sums collected under this chapter and any other authorized sources shall be deposited by the department into an individual trust account to the credit of the committed person. The department shall maintain individual ledger accounts for each committed person and shall issue to each committed person a quarterly statement showing credits and debits.

**§353-21 Withdrawals; forfeitures; etc.** The department shall allow any committed person under its direction to draw from funds in the committed

## ACT 338

person's account such amounts and for such purpose as it may deem proper. Upon the parole or discharge of a committed person, the department shall pay the committed person any money to which the committed person may be entitled under this chapter. Upon the death of any committed person during incarceration, all funds to which the committed person may have been entitled shall be distributed as provided by law in the same manner as the committed person's other property; provided that the funds shall first be used to satisfy any restitution order in that committed person's name or any reimbursements to the State the director has determined is owed by the committed person.

**§353-22 Earnings exempt from garnishment, etc.** No moneys earned by a committed person and held by the department, to any amount whatsoever, shall be subject to garnishment, levy, or any like process of attachment for any cause or claim against the committed person, except for restitution to victims by order of the court.

**§353-23 Disposition of property subject to action for damages.** No disposition of any estate, either by will or otherwise, after the arrest for crime of which the committed person was convicted, whether the sentence is for life or otherwise, shall have any advantage or preference over the claim of any person entitled to damages for a private injury committed by the criminal, unless the disposition was made for a valuable and equivalent consideration to a person ignorant of the arrest.

**§353-24 Guardians of committed persons, appointed when.** Whenever a person is sentenced to imprisonment for any felony for a term exceeding one year, any judge having probate powers, upon application, may appoint a guardian to have the care and management of the committed person's estate, real and personal, during the term of imprisonment or until the committed person is finally discharged from the sentence. The letters of guardianship shall be revoked by the pardon or final discharge of the committed person, but the revocation shall not invalidate legal acts done by the guardian.

**§353-25 Powers and duties of guardian.** Every guardian appointed for any committed person shall pay all the just debts due from the committed person out of the committed person's personal estate, if sufficient, and if not, out of the committed person's real estate, upon obtaining an order for the sale thereof from the judge. The guardian shall also settle all accounts of the committed person, and demand, sue for, and receive all debts due to the committed person, and, with the approbation of the judge, may compound for the same and give a discharge to the debtor. The guardian shall appear for and represent the ward in all legal suits and proceedings, except when another person is appointed for that purpose.

The guardian shall have all the rights and duties, as well as the responsibilities, respecting the management and disposal of the committed person's estate, as appertain to the guardian of a minor or insane person. The guardian shall manage the estate without waste, and the profits thereof, so far as may be necessary, for the comfortable and suitable maintenance of the committed person's family, if there be any, and if the profits are insufficient for that purpose, may sell the real estate and apply the proceeds thereto, upon obtaining the license of the judge.

**§353-26 Removal of guardian.** The guardian may be removed, and another guardian appointed in the former guardian's place, whenever the judge thinks there is just cause for removal.

**§353-27 Compensation; expenses.** Every such guardian shall have such compensation for the guardian's services as the judge before whom the ward's accounts are settled considers just and proper. The guardian shall also be allowed the amount of reasonable expenses.

**§353-28 Property given to committed persons.** All property given or in any manner whatsoever accruing to a committed person, shall vest in the committed person's guardian, if the committed person is sentenced for a term of years, to be disposed of in like manner with the committed person's other property; or if the committed person is sentenced for life, shall vest in the committed person's heirs or legatees; provided that any funds accumulated by the committed person and placed into an account as provided under section 353-20 shall be under the control and management of the director.

**§353-29 What officials may visit.** The governor, lieutenant governor, attorney general, director of finance, director of health, comptroller, judges of all state courts, the ombudsman, the mayors of the counties, members of the legislature, and members of county councils shall be allowed at suitable hours to visit any state correctional facility.

**§353-30 Others by permission.** Only official visitors shall be allowed to visit any state correctional facility or to have any oral or written communication with a committed person, unless with the written permission of the administrator of the correctional facility or the director. No visitor shall deliver to or receive from any committed person any letter or message except with permission granted by the administrator of a state correctional facility pursuant to rules adopted by the director or facility administrator. Unauthorized communications, passing of documents, or visiting shall be a class C felony.

**§353-31 Revolving funds for correctional facility stores.** Subject to the approval of the department of budget and finance, a special revolving fund for each correctional facility store may be established for the purpose of purchasing items to be resold to inmates. All moneys received from the resale of allowable items in correctional facility stores shall be deposited in the revolving fund for each such store. The proceeds of each fund shall be expended at the discretion of the director, but shall be used only for purchasing items to be resold to inmates and for purchasing of other goods or services for inmate benefits and needs."

SECTION 4. Section 353-61, Hawaii Revised Statutes, is amended to read as follows:

**"§353-61 Hawaii paroling authority; appointment; tenure; qualifications.** Members of the paroling authority shall be nominated by a panel composed of the chief justice of the Hawaii supreme court, the director [of the department of social services], the president of the Hawaii correctional association, the president of the bar association of Hawaii, the head of the Hawaii council of churches, a member from the general public to be appointed by the governor and the president of the Hawaii chapter of the national association of social workers. The panel shall submit to the governor the names of not less than three persons, designated as the nominees, for chairman or as a member, for each vacancy. The governor shall appoint, in the manner prescribed by section 26-34, a paroling authority to be known as the Hawaii paroling authority, to consist of three members one of whom shall be designated chairman. Of the members first appointed after May 13, 1976, the member designated as chairman shall be appointed for a term of four years, one member shall be appointed for a term of three years, and one

## ACT 338

member shall be appointed for a term of two years; thereafter all appointments shall be made for terms of four years, commencing from the date of expiration of the last preceding term. Any vacancy in an unexpired term shall be filled by appointment for the remainder of the unexpired term. Nominees to the authority shall be selected on the basis of their qualifications to make decisions that will be compatible with the welfare of the community and of individual offenders, including their background and ability for appraisal of offenders and the circumstances under which offenses were committed.”

SECTION 5. Section 353-62, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other responsibility or duty prescribed by law for the Hawaii paroling authority, the paroling authority shall:

- (1) Serve as the central paroling authority for the State;
- (2) In selecting individuals for parole, consider for parole all committed persons, except in cases where the penalty of life imprisonment not subject to parole has been imposed, regardless of the nature of the offense committed;
- (3) Determine the time at which parole shall be granted to any eligible individual as that time at which maximum benefits of the correctional institutions to the individual have been reached and the element of risk to the community is minimal;
- (4) Establish rules of operation to determine conditions of parole applicable to any individual granted parole;
- (5) Provide continuing custody, control, and supervision of<sup>1</sup> individuals;
- (6) Revoke or suspend parole and provide for the authorization of return to a correctional institution for any individual who violates parole or any condition of parole[;] when, in the opinion of the Hawaii paroling authority, the violation presents a risk to community safety or a significant deviation from any condition of parole;
- (7) Discharge an individual from parole when supervision is no longer needed;
- (8) Interpret the parole program to the public in order to develop a broad base of public understanding and support; and
- (9) Recommend to the legislature sound parole legislation and recommend to the governor sound parole administration.”

SECTION 6. Section 571-48, Hawaii Revised Statutes, is amended to read as follows:

“**§571-48 Decree, if informal adjustment or diversion to a private or community agency or program has not been effected.** When a minor is found by the court to come within section 571-11, the court shall so decree and in its decree shall make a finding of the facts upon which the court exercises its jurisdiction over the minor. Upon the decree the court, by order duly entered, shall proceed as follows:

- (1) As to a child adjudicated under section 571-11(1):
    - (A) The court may place the child on probation:
      - (i) In the child’s own home; or
      - (ii) In the custody of a suitable person or facility elsewhere, upon conditions determined by the court.
- When conditions of probation include incarceration in a youth correctional facility, the incarceration shall be for a

- term not to exceed one year, after which time the person shall be allowed to reside in the community subject to additional conditions as may be imposed by the court.
- (B) The court may vest legal custody of the child, after prior consultation with the agency or institution, in a Hawaii youth correctional facility, in a local public agency or institution, or in any private institution or agency authorized by the court to care for children; or place the child in a private home. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state's department of social services or other [equivalent] appropriate department.
- (C) The court may fine the child for a violation which would be theft in the third degree by shoplifting if committed by an adult. The court may require the child to perform public services in lieu of the fine.
- (2) As to a child adjudicated under section 571-11(2):
- (A) The court may place the child under protective supervision, as hereinabove defined, in the child's own home, or in the custody of a suitable person or agency elsewhere, upon conditions determined by the court.
- (B) The court may vest legal custody of the child, after prior consultation with the agency or institution in a local governmental agency or institution licensed or approved by the State to care for children, with the exception of an institution primarily for the care and treatment of children committed under section 571-11(1) or in any private agency or institution authorized by the court to care for children. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state's department of social services or other [equivalent] appropriate department; provided that the child may not be committed to a public or private institution operated solely for the treatment of law violators.
- (3) An order vesting legal custody of a minor in an individual, agency, or institution under section 571-11(2) shall be for an indeterminate period but shall not remain in force or effect beyond three years from the date entered, except that the individual, institution, or agency may file with the court a petition for renewal of the order and the court may renew the order if it finds such renewal necessary to safeguard the welfare of the child or the public interest. The court, after notice to the parties, may conduct a hearing on the petition. Renewal may be periodic during minority, but no order shall have any force or effect beyond the period authorized by section 571-13. An agency granted legal custody shall be subject to prior approval of the court in any case in which the child is to reside without the territorial jurisdiction of the court and may be subject to prior approval in other cases. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the court.

- (4) Whenever the court commits a child to the care of the director of social services or director of corrections, or vests legal custody of a child in an institution or agency it shall transmit with the order copies of the clinical reports, social study, and other information pertinent to the care and treatment of the child, and the institution or agency shall give to the court any information concerning the child that the court may at any time require. An institution or agency receiving a child under this paragraph shall inform the court whenever the status of the child is affected through temporary or permanent release, discharge, or transfer to other custody. An institution to which a child is committed under section 571-11(1) or (2) shall not transfer custody of the child to an institution for the correction of adult offenders, except as authorized in this chapter and under chapter 352.
- (5) The court may order, for any child within its jurisdiction, whatever care or treatment is authorized by law.
- (6) In placing a child under the guardianship or custody of an individual or of a private agency or private institution, the court shall give primary consideration to the welfare of the child.
- (7) In support of any order or decree under section 571-11(1) or (2), the court may require the parents or other persons having the custody of the child, or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this chapter and who are parties to the proceeding, to do or to omit doing any acts required or forbidden by law, when the judge deems this requirement necessary for the welfare of the child. If such persons fail to comply with the requirement, the court may proceed against them for contempt of court.
- (8) In support of any order or decree for custody or support, the court may make an order of protection setting forth reasonable conditions of behavior to be observed for a specified time, binding upon both parents or either of them. This order may require either parent to stay away from the home or from the other parent or children, may permit the other to visit the children at stated periods, or may require a parent to abstain from offensive conduct against the children or each other.
- (9) The court may dismiss the petition or otherwise terminate its jurisdiction at any time.
- (10) In any other case of which the court has jurisdiction, the court may make any order or judgment authorized by law.
- (11) The court may order any person adjudicated pursuant to section 571-11(1) to make restitution of money or services to any victim who suffers loss as a result of the child's action, or to render community service.
- (12) The court may order any person adjudicated pursuant to section 571-11(2) to participate in community service.
- (13) The court may order the parents of an adjudicated minor to make restitution of money or services to any victim, person, or party who has incurred a loss or damages as a result of the child's action."

SECTION 7. Section 571D-1, Hawaii Revised Statutes, is amended to read as follows:



**“§571D-1 Juvenile justice interagency board.** There is established within the department of the attorney general for administrative purposes the juvenile justice interagency board, consisting of nine members which shall include a police chief of one of the counties, the prosecuting attorney of a county, a representative from a private social agency, and two additional members, all appointed by the governor as provided in section 26-34, and the superintendent of education, the public defender, the director of [social services,] corrections, and the senior judge of the first circuit family court as ex officio members. The composition of the board shall include a resident member from each county in the State.

The attorney general shall designate the executive secretary of the board.”

SECTION 8. Chapter 601, Hawaii Revised Statutes, is amended as follows:

1. By amending section 601-33 to read:

**“[[§601-33]] Duties.** The sheriff and the sheriff’s deputies shall be charged with service of process and execution of any order of court. They shall also perform such other functions as the chief justice may direct in furtherance of the performance of the functions of the judiciary, other than the practice of law[.] or the provision of transportation services for defendants who are under the care and custody of the department of corrections for required court appearances. In that connection, upon specific authorization and direction of the chief justice, the sheriff or a deputy sheriff shall have all of the powers of a police officer, including the power of arrest.”

2. By amending section 601-51 to read:

**“[[§601-51]] Security personnel, powers.** Any person employed by the judiciary as a state law enforcement officer or state security officer upon specific authorization and direction of the judiciary shall have all of the powers of police officers, including the power of arrest as that of law enforcement officers employed by the department of the attorney general under section 28-11.5 provided that such power shall remain in force and effect only while that person is in the actual performance of such person’s duties, which duties shall include off-duty employment when such employment is for other state departments or agencies[.] but shall not include the provision of transportation services for defendants who are under the care and custody of the department of corrections for required court appearances.”

SECTION 9. Section 843-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Commencing on July 1, [1985,] 1987, there is established within the [office of the lieutenant governor,] department of corrections, for administrative purposes only, the Hawaii criminal justice commission. This commission shall have its existence terminated, if not renewed by the legislature, on June 30, 1988.

[For a twelve-month period commencing July 1, 1984, and ending on June 30, 1985, the presently existing Hawaii crime commission shall remain in existence as established in the office of the lieutenant governor, for administrative purposes only.]”

SECTION 10. Sections 334-74, 351-11, 355-4, 355-5, 706-604, 706-656, 706-667, 706-670.5, 706-672, and 832-23; and chapters 352 and 353, Hawaii Revised Statutes, are amended by replacing all references to the

## ACT 338

“department of social services and housing” or like terms with the “department of corrections” or like terms, and by replacing all references to the “director of social services” or like terms, with the “director of corrections” or like terms.

**SECTION 11.** (a) All rights, powers, functions, and duties of the department of social services and housing relating to corrections, including the corrections division, intake service center, Hawaii paroling authority, and the criminal injuries compensation commission; of the judiciary relating to the functions of the sheriff's office and judiciary security personnel that relate solely to the transportation of defendants under the care and custody of a correctional facility for required court appearances; and of the office of the lieutenant governor relating to the Hawaii criminal justice commission are transferred to the department of corrections. A cadre of officers and employees, as may be necessary, to be selected by the director of corrections in concurrence with the director of social services, shall be transferred from the general administration of the department of social services and housing to the department of corrections.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which that officer or employee is transferred or appointed; and provided that subsequent changes in status be made pursuant to applicable civil service and compensation laws.

Any officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which that officer or employee is transferred or appointed.

In the event that an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

(b) All appropriate records, appropriations, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of social services and housing, and judiciary, relating to functions transferred to the department of corrections shall be transferred with the functions to which they relate; provided that such transfers shall occur no later than July 1, 1988. The proposed full budget for the department of corrections shall be reported to the 1988 session of the legislature twenty days prior to opening day.

**SECTION 12.** It is the intent of this Act to neither jeopardize the receipt of any federal aid nor impair the obligation of the State or any agency

thereof to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 13. There is appropriated out of the general revenues of the State of Hawaii the sum of \$336,880, or so much thereof as may be necessary for fiscal year 1987-1988, and \$184,820, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this Act; provided that of the amounts appropriated, \$16,880 for fiscal year 1987-1988 and \$4,820 for fiscal year 1988-1989, shall be expended for the expenses of the interdisciplinary committee established in Section 15 of this Act.

The sum appropriated shall be expended by the department of corrections.

SECTION 14. All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform herewith. All acts passed during this regular session of 1987, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless such acts specifically provide that this Act is being amended.

SECTION 15. It is the intent of this Act that the juvenile corrections functions be temporarily placed in the department of corrections for a two-year period ending June 30, 1989, during which time an interdisciplinary committee shall study and determine the appropriate placement of the youth corrections programs. The committee shall be composed of the following members:

- (1) One representative each from the office of children and youth, the family court; the Hawaii Youth Services Network, and the John Howard Association of Hawaii to be appointed by the head of each respective agency;
- (2) One representative from the Hawaii youth correctional facility to be appointed by the director of corrections; and
- (3) One representative each from the fields of education, mental health, social work, shelters for runaways, and juvenile justice, to be appointed by the governor.

The committee members shall serve without compensation but shall be reimbursed for all expenses incurred in performing their duties as committee members. The committee shall be placed within the department of corrections for administrative purposes and shall cease to exist upon the submission of its report to the legislature.

The committee shall comprehensively study the juvenile justice system in Hawaii and make recommendations on the appropriate placement of the youth corrections functions in either the department of social services and housing or the department of corrections, or whether a separate department for youthful offenders might be more appropriate. The committee shall also make recommendations for improving the coordination and delivery of programs and services to all youthful offenders, including status offenders. The committee shall submit a report of its findings and recommendations not later than twenty days prior to the convening of the Regular Session of 1989.

SECTION 16. Statutory material to be repealed is bracketed. New statutory material is underscored<sup>2</sup>.

## ACT 339

SECTION 17. This Act shall take effect on July 1, 1987; provided that a one-year transition period shall be established and full implementation of this Act shall occur no later than July 1, 1988. During the transition period, pending the appointment of the director of corrections, the deputy director of the department of social services and housing dealing with the public safety area shall serve as the acting director of corrections. The acting director of corrections shall discharge the duties and functions necessary to establish a department of corrections and shall enjoy the privileges attendant thereto, and the department of social services and housing shall extend its resources, other than funds, to assist the acting director, until the director of corrections is appointed.

(Approved June 29, 1987.)

### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 339

S.B. NO. 1751

A Bill for an Act Relating to a Department of Human Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Findings and purpose. More and more people are recognizing the wisdom of reorganizing the current department of social services and housing to separate its social services and housing functions from its criminal justice and corrections functions. Towards this end, legislation has been proposed to establish a department of human services and a department of corrections.

This Act establishes a department of human services. In many respects, this new department is new only nominally. All of the current department of social services and housing's programs and functions which are unrelated to the criminal justice corrections systems will continue to be provided by the new department.

SECTION 2. Chapter 26, Hawaii Revised Statutes, is amended as follows:

1. By amending section 26-4 to read as follows:

“§26-4 Structure of government. Under the supervision of the governor, all executive and administrative offices, departments, and instrumentalities of the state government and their respective functions, powers, and duties shall be allocated among and within the following principal departments which are hereby established:

- (1) Department of personnel services (Section 26-5)
- (2) Department of accounting and general services (Section 26-6)
- (3) Department of the attorney general (Section 26-7)
- (4) Department of budget and finance (Section 26-8)
- (5) Department of commerce and consumer affairs (Section 26-9)
- (6) Department of taxation (Section 26-10)
- (7) University of Hawaii (Section 26-11)
- (8) Department of education (Section 26-12)
- (9) Department of health (Section 26-13)
- (10) Department of [social services and housing] human services (Section 26-14)

- (11) Department of land and natural resources (Section 26-15)
- (12) Department of agriculture (Section 26-16)
- (13) Department of Hawaiian home lands (Section 26-17)
- (14) Department of planning and economic development (Section 26-18)
- (15) Department of transportation (Section 26-19)
- (16) Department of labor and industrial relations (Section 26-10<sup>1</sup>)
- (17) Department of defense (Section 26-21)"

2. By amending section 26-14 to read as follows:

**"§26-14 Department of [social services and housing] human services.**

(a) The department of [social services and housing] human services shall be headed by a single executive to be known as the director of [social] human services.

There shall be within the department of [social services and housing] human services a commission to be known as the board of [social] human services which shall sit in an advisory capacity to the director of [social] human services on matters within the jurisdiction of the department of [social services and housing.] human services. The board shall consist of ten members[.]; one person from each county, other than the county of Kalawao, and five at large, and the director of health as an ex officio nonvoting member.

There shall also be within the department a commission to be known as the board of vocational rehabilitation which shall sit in an advisory capacity to the head of that division charged with the administration of vocational rehabilitation laws and allied services. The board shall consist of eleven members, one person from each judicial circuit and four at large, with the directors of health and labor[,] and industrial relations, and the superintendent of education, as ex officio voting members.

(b) The department shall administer programs designed to improve the social well-being and productivity of the people of the State. Without limit to the generality of the foregoing, the department shall concern itself with<sup>1</sup> problems of human behavior, adjustment, and daily living through the administration of programs of family, child and adult welfare, economic assistance [(including costs of medical care)], health care assistance<sup>1</sup>, rehabilitation toward self-care and support, [delinquency prevention and control, treatment and rehabilitation of adult and juvenile offenders,] public housing, and other related programs<sup>1</sup> provided by law.

(c) The Hawaii housing authority, as now constituted by chapter 356 shall be a constituent corporate unit of the department of [social services and housing] human services with the director of [social] human services as an additional commissioner, ex officio, of the housing authority, serving for a term consistent with the director's appointment. Notwithstanding any other provisions of this chapter, but subject to the administrative control of the director of [social] human services, the functions, duties, and powers of the housing authority, as heretofore provided by law, shall be vested in the Hawaii housing authority.

[The Hawaii paroling authority is placed within the department of social services and housing for administrative purposes only.]

(d) The functions and authority heretofore exercised by the department of public welfare, the [department of institutions (except for Waimano home and the state hospital transferred to the department of health), the boards of prison inspectors, the] bureau of sight conservation and work with the blind (except for the transcription services program transferred to the department of education), the council on veterans' affairs, and any other

## ACT 339

agency of the state or county governments with respect to the assistance and care of the indigent and medically indigent as heretofore constituted are transferred to the department of [social services and housing] human services established by this chapter.”

3. By amending section 26-52 to read as follows:

“§26-52 **Department heads and executive officers.** The salaries of the following state officers shall be as follows:

- (1) Effective January 1, 1986, the salary of the superintendent of education shall be \$76,000 a year.
- (2) The salary of the president of the University of Hawaii shall be set by the board of regents, but shall not exceed \$95,000 a year.
- (3) Effective January 1, 1986, the salaries of all department heads or executive officers of the department<sup>1</sup> of accounting and general services, agriculture, attorney general, budget and finance, commerce and consumer affairs, Hawaiian home lands, health, human services, labor and industrial relations, land and natural resources, personnel services, planning and economic development, [social services and housing,] taxation<sup>1</sup> and transportation shall be \$68,400 a year.
- (4) Effective January 1, 1986, the salary of the adjutant general shall be \$68,400 a year. If the salary is in conflict with the pay and allowance fixed by the tables of the regular army or air force of the United States, the latter shall prevail.”

SECTION 3. Section 346-14, Hawaii Revised Statutes, is amended to read as follows:

“§346-14 **Duties generally.** Except as otherwise provided by law, the department of [social services and housing] human services shall:

- (1) Administer, establish programs and standards, and promulgate rules as deemed necessary for all public assistance[, including payments for medical care;] programs;
- (2) Establish, extend, and strengthen services for the protection and care of neglected children and children in danger of becoming delinquent;
- (3) Assist in preventing family breakdown;
- (4) Place, or cooperate in placing neglected children in suitable private homes or institutions, and place, or cooperate in placing, children in suitable adoptive homes;
- (5) Have authority to establish, maintain, and operate receiving homes for the temporary care and custody of neglected children until suitable plans are made for their care; and accept from the police and other agencies, for temporary care and custody, any neglected child until satisfactory plans are made for the child;
- (6) Administer the medical assistance programs for eligible public welfare and other medically needy individuals by establishing standards, eligibility and health care participation rules, payment methodologies, reimbursement allowances, systems to monitor recipient and provider compliance, and assuring compliance with federal requirements in order to maximize federal financial participation;
- [(6)] (7) Cooperate with the federal government in carrying out the purposes of the Social Security Act, and in other matters of mutual concern pertaining to public welfare, public assistance, and child welfare services, including the making of such reports,

the adoption of such methods of administration, and the making of such rules [and regulations] as are found by the federal government, or any properly constituted authority thereunder, to be necessary or desirable for the efficient operation of the plans for such public welfare, assistance, and child welfare services, or as may be necessary or desirable for the receipt of financial assistance from the federal government;

- [(7)] (8) Carry on research and compile statistics relative to public and private welfare activities throughout the State, including those dealing with dependence, defectiveness, delinquency, and related problems;
- [(8)] (9) Develop plans in cooperation with other public and private agencies for the prevention and treatment of conditions giving rise to public welfare problems;
- [(9)] (10) Make such rules governing the procedure in hearings, investigations, recording, registration, determination of allowances, and accounting, and conduct such other activities as may be necessary or proper to carry out this chapter, which rules, when approved by the governor, shall have the force and effect of law;
- [(10)] (11) Supervise or administer any other activities authorized or required by this chapter, including the development of the staff of the department through in-service training and educational leave to attend schools and other appropriate measures, and any other activities placed under the jurisdiction of the department by any other law;
- [(11)] (12) Make, prescribe, and enforce such policies and rules governing the activities provided for in section 346-31 as it deems advisable, including the allocation of moneys available for assistance to persons assigned to work projects among the several counties or to particular projects where such apportionment has not been made pursuant to other provisions of law, if any, governing expenditures of the funds, which rules, when approved by the governor, shall have the force and effect of law;
- [(12)] (13) Determine the appropriate level for the Hawaii security net by developing a tracking and monitoring system to determine what segments of the population are not able to afford the basic necessities of life, and advise the legislature annually regarding the resources required to maintain the security net at the appropriate level."

SECTION 4. Chapters 346, 347, 348, 349C, 350, 350C, 350E, 356, 363, 578, 587, and sections 29-14, 40-85, 65-2, 70-28, 76-16, 102-14, 206E-3, 226-53, 235-55.5, 294-2, 294-22, 301-4, 319-3, 321-122, 321-123, 325-38, 333-45, 333E-1, 348E-2, 349-4, 359A-5, 367-2, 371K-4, 373C-23, 386-1, 386-25, 392-5, 393-5, 394-2, 457B-6, 481B-3, 571-48(2), 571-48(4), 571-62, 571-63, 571D-1, 576-25, 576-30, 576D-8, 578-2, 578-8, 578-10, 581-3(5), 581-12(1), 584-6, and 831-3.1, Hawaii Revised Statutes, are amended by replacing every reference to the "director of social services" or like term with "director of human services", or like term, and by replacing every reference to the "department of social services and housing" or like term, with "department of human services" or like term.

SECTION 5. **Federal aid, contract and bond obligations; not impaired.** It is the intent of this Act to neither jeopardize the receipt of any federal aid nor impair the obligation of the State or any agency thereof to persons with which it has existing contracts or to the holders of any bond issued by the

## ACT 340

State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

**SECTION 6. Conflict with provisions of this Act.** All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform to this Act. All acts passed during this Regular Session of 1987, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless such acts specifically provide that this Act is being amended.

**SECTION 7.** In the event that S.B. No. 5, as amended, fails to be enacted into law, all functions related to the criminal justice systems, including the Hawaii paroling authority, will remain with the newly established department of human services.

**SECTION 8.** Statutory material to be repealed is bracketed. New statutory material is underscored.

**SECTION 9.** This Act shall take effect on July 1, 1987.

(Approved June 29, 1987.)

### Note

1. So in original.

## ACT 340

H.B. NO. 1738

A Bill for an Act Relating to Employment for the Chronically Mentally Ill.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature is informed that many chronically mentally ill people can perform well in certain kinds of employment in on-going commercial business enterprises and thus become productive members of society. Employment can be a positive factor in their lives by providing the basis for stability and pride of accomplishment. Society also benefits from the productivity of those who may otherwise remain idle. The legislature finds that the establishment of an employment program to meet the specific needs of the chronically mentally ill is in the best interest of this State.

**SECTION 2.** Chapter 334, Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

**“§334- Employment program for the chronically mentally ill established.** There is established within the mental health division of the department of health a community-based employment program for the chronically mentally ill to (1) create business enterprises for employment of the chronically mentally ill; (2) teach the skills and attitudes which will enable the chronically mentally ill to become employed; and (3) provide support services including housing so that the chronically mentally ill can secure and maintain employment and live within the community.”

**SECTION 3.** New statutory material is underscored<sup>1</sup>.

**SECTION 4.** This Act shall take effect on July 1, 1987.

(Approved June 29, 1987.)



## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 341

H.B. NO. 598

A Bill for an Act Relating to Persons with Developmental Disabilities or Mental Retardation.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** The legislature finds that in Hawaii there are many organizations, both public and private, concerned with the planning and implementation of a wide spectrum of services for persons with developmental disabilities or mental retardation.

The treatment philosophies represented by these agencies and groups are dedicated to improving the quality of life of an important segment of Hawaii's population. This bill is intended to improve services for persons with developmental disabilities or mental retardation.

**SECTION 2.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
SERVICES FOR PERSONS WITH DEVELOPMENTAL  
DISABILITIES OR MENTAL RETARDATION**

**§ -1 Definitions.** As used in this chapter, unless the context requires otherwise:

“Active treatment” means provision of services as specified in an individualized service plan. These services may include, but are not limited to, activities, experiences, and therapy which are part of a professionally developed and supervised program of health, social, habilitative, and developmental services.

“Case management services” means services to persons with developmental disabilities or mental retardation that assist them in gaining access to needed social, medical, legal, educational, and other services, and includes:

- (1) Follow-along services which assure, through a continuing relationship between an agency or provider and a person with a developmental disability or mental retardation and the person's parent, if the person is a minor, or guardian, if a guardian has been appointed for the purpose, that the changing needs of the person and the family are recognized and appropriately met.
- (2) Coordinating and monitoring services provided to persons with developmental disabilities or mental retardation by two or more persons, organizations, or agencies.
- (3) Providing information to persons with developmental disabilities or mental retardation about availability of services and assisting the persons in obtaining the services.

“Department” means the department of health.

“Developmental disabilities” means a severe, chronic disability of a person which:

- (1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (2) Is manifested before the person attains age twenty-two;

- (3) Is likely to continue indefinitely;
- (4) Results in substantial functional limitations in three or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic sufficiency; and
- (5) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

"Director" means the director of health.

"Habilitation" means the process by which the staff of an agency assists an individual to cope more effectively with the demands of his or her own person and environment and to raise the level of his or her physical, mental, and social functioning. Habilitation includes, but is not limited to, programs of formal structured education and treatment.

"Individualized service plan" means the written plan required by section -6.

"Individually appropriate" means responsive to the needs of the person as determined through interdisciplinary assessment and provided pursuant to an individualized service plan.

"Interdisciplinary team" means a group of persons that is drawn from or represents those professions, disciplines, or service areas that are relevant to identifying an individual's needs and designing a program to meet them, and is responsible for evaluating the individual's needs, developing an individual program plan to meet them, periodically reviewing the individual's response to the plan, and revising the plan accordingly. A complete team includes the individual being served, unless clearly unable to participate; the individual's family, unless their participation has been determined to be inappropriate; those persons who work most directly with the individual in each of the professions, disciplines, or service areas that provide service to the individual, including direct-care or direct-contact staff; and any other persons whose participation is relevant to identifying the needs of the individual and devising ways to meet them.

"Least restrictive" means the least intrusive and least disruptive intervention into the life of a person with developmental disability or mental retardation that represents the least departure from normal patterns of living that can be effective in meeting the person's developmental needs.

"Least restrictive environment" means that environment that represents the least departure from normal patterns of living that can be effective in meeting the individual's needs.

"Mental retardation" means significantly subaverage general intellectual functioning resulting in or associated with concurrent moderate, severe, or profound impairments in adaptive behavior and manifested during the developmental period.

"Monitor" means to conduct a systematic, coordinated, objective, qualitative review of services provided by any person, agency, or organization.

"Representative" means any individual who can advise and advocate for a person with developmental disabilities or mental retardation and who shall serve at the request and pleasure of such person; provided that if the person with developmental disabilities or mental retardation is a minor or is legally incapacitated and has not requested a representative, the parent or guardian of the person may request a representative to assist on behalf of the person with developmental disabilities or mental retardation.

“Residence” or “residential” means the living space occupied by the person with a developmental disability or mental retardation, including single-person homes, natural family homes, care homes, group homes, foster homes, institutional facilities, and all other types of living arrangements.

“Services” means appropriate assistance provided to a person with a developmental disability or mental retardation in the least restrictive, individually appropriate environment to provide for basic living requirements and continuing development of independence or interdependent living skills of the person. These services include, but are not restricted to: case management; residential, developmental, and vocational support; training; habilitation; active treatment; day treatment; day activity; respite care; domestic assistance; attendant care; rehabilitation; speech, physical, occupational and recreational therapy; recreational opportunities; counseling, including counseling to the person’s family, guardian, or other appropriate representative; development of language and communications skills; interpretation; transportation; and equipment.

**§ -2 Developmental disabilities system.** (a) The department of health shall develop and administer a comprehensive system of programs and services for persons with developmental disabilities or mental retardation within the limits of state or federal resources allocated or available for purposes of this chapter. The department’s responsibility for persons with developmental disabilities or mental retardation, including Waimano training school and hospital and community services, shall be under one administrative unit for the purpose of coordination, monitoring, evaluation, and delivery of services.

(b) The department may ensure the provision of an array of appropriate services and care to persons with developmental disabilities or mental retardation through the utilization of existing resources within the community, through coordination with programs and services provided under other federal, state, or county acts, and through specific funding when no other resources are available. The department shall not supplant or duplicate services provided under other federal, state, or county acts.

(c) Programs of the department may include, but shall not be limited to:

- (1) Early identification and evaluation of persons with developmental disabilities or mental retardation;
- (2) Development, planning and implementation in coordination with other federal, state, and county agencies, of service programs for persons with developmental disabilities or mental retardation;
- (3) Development and provision of service programs in the public or private sectors through chapter 42, for persons with developmental disabilities or mental retardation;
- (4) Establishment of a continuum of comprehensive services and residential alternatives in the community so as to allow persons with developmental disabilities or mental retardation to live in the least restrictive, individually appropriate environment;
- (5) Development and implementation of a program for single entry access by persons with developmental disabilities or mental retardation to services provided under this chapter as well as referral to and coordination with services provided in the private sector or under other federal, state, or county acts, including case management, and development of an individualized service plan by an interdisciplinary team;

## ACT 341

- (6) Collaborative and cooperative services with public health and other groups for programs of prevention of developmental disabilities or mental retardation;
- (7) Informational and educational services to the general public and to lay and professional groups;
- (8) Consultative services to the judicial branch of government, to educational institutions, and to health and welfare agencies whether such agencies are public or private;
- (9) Provision of community residential alternatives for persons with developmental disabilities or mental retardation, including group homes and homes meeting ICF/MR standards; and
- (10) Provision of other programs, services, or facilities necessary to provide a continuum of care for persons with developmental disabilities or mental retardation.

(d) Provisions for programs and services shall be limited to the amount of resources allocated or available for purposes of this chapter.

§ -3 **Community services for the developmentally disabled.** The department shall develop and administer a community service delivery system which may design, implement, administer, coordinate, monitor, and evaluate the programs and services of the department for persons with developmental disabilities or mental retardation other than the operations and management of Waimano training school and hospital.

§ -4 **Waimano training school and hospital.** The department may operate and administer an institution known as the "Waimano training school and hospital" for persons with developmental disabilities or mental retardation who are incapable of independent self-support and self-management in the community and are incapable of attaining independent self-support and self-management without proper treatment and training.

§ -5 **Other systems within the developmental disability system.** The department may create other systems as required to implement the services necessary for persons with developmental disabilities or mental retardation.

§ -6 **Application and assessment for services; individualized service plans.** (a) The department may develop and administer an application and assessment system for persons with developmental disabilities or mental retardation. If the department determines that the person is eligible for services under this chapter within the limits of federal or state resources available for the purposes of this chapter, an individualized service plan for the person shall be prepared by an interdisciplinary team for the person and the department may provide case management services to the person.

(b) The procedure for assessment of the person and the elements of the individualized service plan shall be as described in rules adopted by the department pursuant to chapter 91. The individualized service plan shall be in writing and shall include, at a minimum, the nature of the needs of the person, treatment and care goals, and specific services to be offered to the person to attain these goals.

§ -7 **Provision of services.** Based upon the individualized service plan, the department shall, as may be required, refer the person to services provided by the department under this chapter, to services provided under other federal or state laws, or to services provided by appropriately licensed private agencies.

**§ -8 Rights of persons with developmental disabilities or mental retardation.** (a) Persons with developmental disabilities or mental retardation shall have the following rights:

- (1) To receive the least restrictive, individually appropriate services, including a program of activities outside the residence in accordance with the person's individualized service plan;
- (2) To reside in the least restrictive, individually appropriate residential alternative located as close as possible to the person's home community within the State;
- (3) To the extent it is individually appropriate, to:
  - (A) Interact with nondisabled persons in a nontreatment, non-service-oriented setting;
  - (B) Live with or in close proximity to nondisabled persons; and
  - (C) Live in a setting which closely approximates those conditions available to nondisabled persons of the same age;
- (4) To reasonable access to review medical, service, and treatment files and to be informed of diagnoses;
- (5) To participate in the development of the individualized service plan, if able to participate, or to be represented by a parent, guardian, or other representative as appropriate;
- (6) To receive a copy of the person's individualized service plan; and
- (7) To privacy and confidentiality, to the extent possible, in connection with services provided to the person.

(b) Rights listed in this chapter shall not be construed to replace or limit any other rights, benefits, or privileges, including other statutory and regulatory due process rights and protections, to which a person with a developmental disability or mental retardation may be entitled.

(c) The enumeration or granting of these rights does not guarantee the provision of services.

**§ -9 Request for admission to Waimano training school and hospital.** (a) Except as provided in this section, no person shall be admitted to Waimano training school and hospital.

(b) Any person who is found to be incapable of independent self-support and self-management in the community or to be incapable of attaining independent self-support and self-management without proper treatment and training, and who is found to require institutional care, supervision, control, treatment, and training for the person's own welfare and who is found to be developmentally disabled or mentally retarded may be voluntarily admitted to Waimano training school and hospital.

(c) If the person is a minor, the department may permit the admission of the minor to Waimano training school and hospital upon the written application of a parent, guardian, or other person or agency having legal custody; provided that no minor shall be entitled as a matter of right either to be admitted or to remain at the Waimano training school and hospital.

(d) If the person is an adult, the department may permit the admission of the adult to Waimano training school and hospital upon the written application by the person or by a court-appointed guardian of the adult's person if the guardian is specifically authorized to make such application in the court order appointing the guardian or any other order issued by the family court; provided that no adult shall be entitled as a matter of right either to be admitted or to remain at the Waimano training school and hospital.

## ACT 341

(e) The department may contest inappropriate admission to Waimano training school and hospital by the court.

**§ -10 Standards for admission to Waimano training school and hospital.** (a) No person shall be voluntarily admitted to Waimano training school and hospital except upon recommendation of an interdisciplinary team as reflected in the person's individualized service plan.

(b) An interdisciplinary team which recommends voluntary admission to Waimano training school and hospital shall include, but not be limited to, a physician, a clinical psychologist, and a social worker, all qualified by professional training and experience to make the diagnosis of developmental disability or mental retardation and the findings necessary to determine that admission to Waimano training school and hospital is the proper, individually appropriate placement in the least restrictive environment available. The interdisciplinary team's evaluation shall include the administration of psychological tests and psychological evaluations as an aid in the diagnosis of developmental disability or mental retardation, and the results of such tests shall be included in the individualized service plan. The individualized service plan shall meet the requirements of section -6.

(c) The director may cause the person to be admitted to Waimano training school and hospital pursuant to the person's individualized service plan if the director determines there is no suitable alternative available which would be less restrictive than admission.

(d) The department shall orient admissions into Waimano training school and hospital for persons with severe or profound mental retardation.

**§ -11 Director as guardian.** (a) Notwithstanding any law to the contrary, the family court may appoint the director as guardian of any person if the court finds that:

- (1) The person is incapacitated as defined in section 560:5-101(2);
- (2) The person is developmentally disabled or mentally retarded;
- (3) The person may reasonably be expected to need treatment or care at Waimano training school and hospital or any residential facility; and
- (4) There is no other suitable guardian including the public guardian as designated in chapter 551A able or willing to serve as guardian of the person.

(b) The director, if so appointed, shall have all the powers and duties of a guardian of the person duly appointed by the court; provided that the director shall not be liable in damages for any tortious act committed by the person.

**§ -12 Periodic review.** The director shall cause any person admitted to Waimano training school and hospital to be re-examined by an interdisciplinary team on the same terms and conditions as required in section -10, not less than annually. Following such re-examination, the director shall discharge such persons from Waimano training school and hospital unless (1) the interdisciplinary team certifies that continuing admission is proper and that the person is in need of care or treatment at Waimano training school and hospital, and (2) the director redetermines that there is no suitable alternative available which would be less restrictive than admission.

**§ -13 Payments for care and treatment of persons receiving services; liability.** A parent, guardian of the property, or other person liable for the support of any person receiving services under this chapter may be required to pay such sums as may be determined by the department for the care and treatment of the person. The parent or guardian of the property of a minor

receiving services under this chapter shall be liable for such care and treatment until the person admitted has reached the age of majority. The liability of a guardian of the property of a person under this section shall be limited to the estate of the ward and shall not be recoverable out of the individual assets of the guardian. Every person receiving services under this chapter and any property of the person's estate not exempt from execution shall be liable for the expense of the person's care and treatment. The attorney general, whenever requested by the director, shall take such steps as may be appropriate, by civil action if necessary, to enforce any liability established by this section. The attorney general may designate any appropriate county attorney to act in the attorney general's behalf in any enforcement proceeding.

The department, with the approval of the governor and from the funds appropriated to the department for the care and treatment of persons with developmental disabilities or mental retardation, may transfer from time to time to the department of social services and housing such amounts as may be requested by the department of social services and housing to match federal funds available under Title XIX of the Social Security Act to assist any indigent or medically indigent persons to pay for the care and treatment of any person receiving services under this chapter. The department may expend federal funds so received for the purposes of this chapter.

**§ -14 Earnings and income of residents and wards.** The director shall adopt, pursuant to chapter 91, rules necessary for the collection, conservation, and disposition of earnings or income of any person admitted to Waimano training school and hospital which are not subject to the control of a court appointed guardian of the property of the resident or ward, upon such terms and conditions as the director may deem advisable.

**§ -15 Compensation for labor by persons admitted to Waimano training school and hospital.** Any person admitted to Waimano training school and hospital and performing services for Waimano training school and hospital may be allowed compensation for the services as shall be determined by the director pursuant to applicable labor standards laws. No person, because of the person's services for Waimano training school and hospital, shall be deemed to be an employee of the State.

**§ -16 Effect on prior commitments.** Persons committed to Waimano training school and hospital prior to the effective date of this chapter shall remain wards of the director, and the director is hereby granted the power to voluntarily admit such persons to Waimano training school and hospital. These persons shall be deemed to have met the criteria for admission under this chapter. Any parent or other interested person may petition the family court for removal of the director as guardian of the person of any person committed to Waimano training school and hospital on the effective date of this Act, under section 560:5-307.

**§ -17 Authority of director to enter into agreements; make dispositions of state resources.** (a) The director may enter into agreements with the federal government, other state departments and agencies, and the counties; enter into assistance agreements with private persons, groups, institutions, or corporations; purchase services required or appropriate under this chapter from any private persons, groups, institutions, or corporations; allocate and expend any resources available for the purposes of this chapter; and do all things necessary to accomplish the purposes and provisions of this chapter.

## ACT 341

(b) To the extent the director deems it appropriate, the director may require a recipient of any state funds under this chapter to contribute moneys, facilities, or services for carrying out the program or project.

(c) The director shall establish standards and review procedures to assure that private persons, groups, institutions, or corporations provide the services and facilities necessary to accomplish the purposes for which the funds are disbursed.

§ -18 **Rules.** The director, in consultation with the state planning council on developmental disabilities, private agencies, users of services under this chapter, and other interested parties, shall adopt rules pursuant to chapter 91 necessary or appropriate to carry out this chapter, which shall include, but not be limited to:

- (1) Establishment of eligibility requirements for participation in services provided under this chapter;
- (2) Establishment of standards of transfer from one facility to another;
- (3) Provision for the involvement of the person and, where appropriate, the parents, guardian, or other representatives of the person in the determination of eligibility under this chapter, the preparation of the person's individualized service plan, and the selection or rejection of services under this chapter;
- (4) Protection and enhancement of the rights of persons receiving or applying for services under this chapter, including the right to privacy and confidentiality;
- (5) A fair, timely, and impartial grievance procedure to provide administrative due process and recourse for persons aggrieved by any action or failure to act on the part of the department under this chapter; and
- (6) Other provisions required or appropriate to implement the purposes of this chapter.

§ -19 **Limitation of liability.** The responsibilities of the department to carry out this chapter shall be limited to the resources available to carry out the provisions of this chapter. When such resources are exhausted, no action may be brought by or on behalf of any person or organization in any court to compel the provision of further services.

§ -20 **Standards for services.** The department shall require appropriate standards of services to be met by its own services or contractual services including residential, day treatment, and other related programs. These standards, including those for intermediate care facility services in facilities for the mentally retarded or persons with related conditions shall, wherever applicable and appropriate, conform to federal standards."

SECTION 3. Chapter 333, Hawaii Revised Statutes, is repealed.

SECTION 4. Chapter 333E, Part II, Hawaii Revised Statutes, is repealed.

SECTION 5. The director shall take such actions directly or through the department of social services and housing to maximize federal Title XIX funds for residential, day programs, family support, respite, and other services as applicable. Nothing in this Act is intended to preclude the State from claiming and receiving Medicaid reimbursement for services covered under the State's Medical Assistance plan and provided on behalf of Title XIX-eligible recipients.



Federal reimbursements for additional Title XIX eligible services provided by the State after July 1, 1987 for the purposes of this chapter shall be expended by the department of health for the purposes of this Act.

SECTION 6. The department of health is authorized to establish and administer special funds for the purposes of this chapter and in order to maximize use of federal funds.

SECTION 7. **Statewide plan for services.** (a) The department of health, in coordination with the state planning council on developmental disabilities and other related private and public agencies, shall jointly develop and implement a statewide plan for services. The plan shall address services to persons with developmental disabilities or mental retardation not otherwise entitled to or receiving the same services under another state or federal act.

(b) The first plan shall be presented to the 1989 legislature.

(c) The state health functional plan shall be developed consistently with the statewide plan required by this Act.

(d) A report shall be submitted to the legislature annually on the implementation of this plan.

SECTION 8. This Act shall take effect on July 1, 1987.

(Approved June 29, 1987.)

## ACT 342

H.B. NO. 1150

A Bill for an Act Relating to Coordination of Services for Children with Severe Emotional and Developmental Problems.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purpose.** The legislature finds that children with severe emotional and developmental problems are in significant need of service plans which are closely coordinated between and among the multiple agencies which serve them. This need is even more urgent for the small number of children with the most severe problems where uncoordinated service planning and monitoring may actually make problems worse. These children may require highly individualized approaches which may be difficult to obtain without innovative funding approaches. It is in the interest of the State of Hawaii to take care of our children, and every effort should be made to avoid placement of children out of their own homes, out of their communities, or out of state whenever possible.

The purpose of this Act is to provide an innovative and flexible multiple agency resource for coordinating the placement and services for children with severe emotional and developmental problems.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### “CHAPTER INTERDEPARTMENTAL CLUSTER FOR SERVICES TO CHILDREN

§ -1 **Interdepartmental cluster for services to children; establishment, functions.** (a) There is established a statewide interdepartmental cluster for services to children within the department of health which shall be

## ACT 343

comprised of representatives of major child-serving agencies with statewide authority and responsibility. The cluster shall include the department of education, the department of health, the department of social services and housing, the judiciary, and the office of children and youth as regular members. The department of health shall staff the cluster and provide an identified place where development and coordination of service plans and programs for the multi-system children having severe emotional and developmental problems may be done on a systematic basis.

(b) The statewide interdepartmental cluster shall:

- (1) Establish interdepartmental clusters at the local level;
- (2) Establish written policies and procedures for both itself and the local clusters;
- (3) Review and make recommendations on individual cases referred by local clusters or by directors of child-serving departments or agencies that have documentation that various county or local agencies have jointly attempted to develop programs and funding to meet the child's need, and that existing or alternative programs and funding have been exhausted or are insufficient or inappropriate in view of the distinctive nature of the child's situation;
- (4) Develop written, comprehensive, and coordinated service plans for individual multi-needs children for implementation by local clusters and, where required, utilize funds appropriated to it to assist local clusters in implementing such plans;
- (5) Identify a single local agency to provide case management for each case accepted by the statewide cluster;
- (6) Monitor each case; and
- (7) Adjust policies and procedures and develop training which will ensure appropriate services for multi-system involved children at both the state and local levels."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$339,000, or so much thereof as may be necessary for fiscal year 1987-1988, and the sum of \$339,000, or so much thereof as may be necessary for fiscal year 1988-1989, for the purposes of this Act. The sum appropriated shall be expended by the department of health.

SECTION 4. This Act shall take effect on July 1, 1987.

(Approved June 29, 1987.)

## ACT 343

S.B. NO. 515

A Bill for an Act Relating to Grants for Child Abuse and Neglect Prevention.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that child abuse and neglect are a threat to the family unit and impose major expenses on society. The legislature further finds that there is a need to assist private and public agencies in identifying and establishing effective community-based educational and service programs for the prevention of child abuse and neglect. It is the intent of the legislature to reduce the need for state intervention and state expense with respect to child abuse and neglect, by increasing prevention projects and programs. It is further the intent of the legislature to create a

mechanism to encourage the development of innovative and effective programs to prevent child abuse and neglect.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$400,000, or so much thereof as may be necessary for fiscal biennium 1987-1989, to be expended by the department of health for innovative community based educational or service projects or programs designed to prevent child abuse and neglect.

SECTION 3. This Act shall take effect on July 1, 1987.

(Approved June 29, 1987.)

## ACT 344

H.B. NO. 1514

A Bill for an Act Relating to Public Assistance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-51, Hawaii Revised Statutes, is amended to read as follows:

**“§346-51 Public assistance and child welfare services administered by department.** The department of social services and housing shall administer public assistance and child welfare services in the several counties except for payments administered under the Federal Supplemental Security Income Program or its successor agency. No person shall be denied the right to petition the department for additional assistance as established under section [346-53(h).] 346-53(g).”

SECTION 2. Section 346-53, Hawaii Revised Statutes, is amended to read as follows:

**“§346-53 Determination of amount of assistance.** (a) The director shall adopt rules pursuant to chapter 91 concerning the determination of public assistance grants under this chapter. Public assistance grants shall be sufficient to maintain a standard consistent with this chapter. In granting public assistance to a person under this chapter the department may take into account part or all of the needs of the person's dependents or those persons essential to the person's well-being; provided that they are also eligible for public assistance. In the event that a public assistance grant to a recipient has taken into consideration only part of the needs of other eligible persons this public assistance grant shall be without prejudice to a separate public assistance grant to such other eligible persons or any of them, as may be proper to meet their remaining needs and in compliance with this chapter.

(b) The maximum basic needs allowance which the department shall initially pay a recipient considering income and resources in accordance with this chapter shall be \$100 plus an additional \$44 for each additional person whose needs have been taken into account by the department. Beginning January 1, 1978, and on or before January 1 of each odd-numbered year thereafter, the director shall submit a report to the legislature indicating the amount of additional moneys required to implement a cost of living increase for the adjusted basic needs allowance equal to the annual percentage increase, rounded to the nearest dollar:

- (1) In the average weekly wage in covered employment as computed by the director of labor and industrial relations pursuant to section 383-22, or

**ACT 344**

- (2) In the consumer price index for Hawaii as computed by the United States Department of Labor, whichever is lowest.

The director shall request that such amount be reflected in that portion of the executive budget relating to the department. If additional funds are appropriated for a cost of living adjustment, then the adjusted basic needs allowance shall be adjusted to reflect the appropriation. The department shall pay a recipient the maximum basic needs allowance if the department determines that the recipient's needs are not reduced by the recipient's income or resources.

(c) For recipients in nondomiciliary shelter, the shelter allowance (to include rent and utilities) shall be [for cost paid, up to the maximum as provided in the following schedule:] as follows:

- |     |                    |       |                        |
|-----|--------------------|-------|------------------------|
| (1) | <del>[\$175]</del> | \$193 | for 1 person;          |
| (2) | <del>[\$215]</del> | \$237 | for 2 persons;         |
| (3) | <del>[\$240]</del> | \$264 | for 3 persons;         |
| (4) | <del>[\$265]</del> | \$292 | for 4 persons;         |
| (5) | <del>[\$290]</del> | \$319 | for 5 persons;         |
| (6) | <del>[\$320]</del> | \$352 | for 6 persons; or      |
| (7) | <del>[\$360]</del> | \$396 | for 7 or more persons. |

(d) The director shall determine the amount of maximum shelter allowance for each recipient who is residing in a residential treatment facility. This amount shall be equal to the cost to each such facility for providing shelter to such recipient; provided that the amount shall not include any cost of such facility normally attributed to determining the basic needs allowance or for providing treatment and rehabilitation to the recipient. No maximum shelter allowance amount determined by the director shall exceed the amount under subsection (c). The director shall adopt the criteria for determining the maximum shelter allowance under this subsection by rule in accordance with chapter 91; provided that the actual amounts shall not be required to be adopted by rule.

(e) The director shall pursuant to chapter 91 determine the rate of payment for the different levels of domiciliary care provided to recipients eligible for Federal Supplemental Security Income or public assistance in accordance with state standards.

The rate of payment at which level a recipient enters an adult residential care home licensed pursuant to section 321-15.6 shall remain the same for as long as the recipient resides in that adult residential care home. The rate of payment may be raised if the recipient's condition so requires, or by rule of the department in accordance with this subsection; provided that notwithstanding the rate of payment at the time of entry, the department shall ensure that the recipient shall receive the quality of care consistent with the level of care as determined by the department; provided further that if the operator does not provide the quality of care consistent with the needs of the individual as determined by and to the satisfaction of the department, the department may reduce the rate of payment, or adjust the level of care, or remove the recipient to another facility. The department shall handle abusive practices under this section in accordance with chapter 91.

Nothing in this subsection shall allow the director to remove a recipient from an adult residential care home or other similar institution if the recipient does not desire to be removed and the operator thereof is agreeable to the recipient remaining therein, except where the recipient requires a higher level of care than provided thereby, or where the recipient no longer requires any domiciliary care.

[(f) The department shall establish rules pursuant to chapter 91 for supplement payments under the Federal Supplemental Security Income

Program or its successor agency, such that a recipient's payments and benefits do not exceed the total of the maximum basic needs allowance and shelter allowance as provided by this chapter; provided that if a recipient sharing housing with a person receiving a shelter allowance from the department could qualify as an essential person to or dependent of such person, then the recipient shall be considered to live in free shelter. A recipient renting private housing or purchasing the home the recipient lives in shall receive a shelter allowance for cost paid, up to the maximum established in subsection (c).

(g) (f) The department shall pay rental and utility (to include gas, electricity, and water only) deposits once only for any person eligible for financial assistance by the department. However, under extraordinary circumstances as determined by the department, an additional rental deposit, utility deposit, or both, may be granted.

(h) (g) Any recipient may petition the department for additional assistance when the recipient's need is due to emergencies caused by seismic wave, tsunami, hurricane, volcanic eruption, typhoon, earthquake, flood, or fire determined by the director to have caused losses as to require and justify additional assistance from the State. In addition any recipient may petition the department for additional assistance for the replacement or repair of household appliances. Such additional assistance shall be paid on an emergency basis, as determined by the department, to meet the cost of replacing or repairing household appliances. If the cost of repairs of household appliances is less than one-half the unit cost of the item, the department shall pay for the cost of repairs. If the cost of repairs of household appliances is more than one-half the unit cost of the item, the department shall replace the household appliance; provided that the replacement cost shall not exceed \$350. For the purposes of this subsection "household appliances" means a refrigerator or a range.

The department shall establish an emergency fund, not to exceed one per cent of total financial assistance from state funds required by this chapter in the previous fiscal year. The director shall adopt rules pursuant to chapter 91 for determining in which cases to grant lump sum payments to recipients petitioning for additional assistance."

SECTION 3. Section 346-54, Hawaii Revised Statutes, is amended to read as follows:

**"§346-54 Report to the legislature.** On or before January 1 of odd-numbered years the director shall submit a report to the legislature concerning the adequacy of the basic needs allowance and shelter allowance established by this chapter.

In addition, should general fund expenditures for financial assistance and medical payment increase at a rate greater than the rate of increase in general fund tax revenues in any fiscal year, the director shall report such increases to the legislature and make cost control recommendations that will control increases in general fund public assistance expenditures. Cost control recommendations shall include, but not be limited to, the following: (1) changes in eligibility standards, (2) adjustments to the basic needs allowance, (3) adjustments to the [maximum] shelter allowance, (4) alternatives to financial assistance for meeting basic needs, and (5) adjustments to medical payment fees and levels of service."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on January 1, 1988.

(Approved June 29, 1987.)

ACT 345

H.B. NO. 26

A Bill for an Act Relating to the Establishment of a Voluntary Workfare Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . WORKFARE**

**§346- Workfare program; establishment, purpose.** There is established a workfare program to be administered by the department of social services and housing. The purposes of the workfare program shall be to:

- (1) Provide job training and educational opportunities to participants in the program with the goal of developing sufficient skills and knowledge for permanent employment which will end dependence on public assistance;
- (2) Allow, not require, public assistance recipients to participate under the philosophy that self-motivation is better than forced, unwilling participation;
- (3) Accommodate the specific needs of individual participants by providing individualized job training and educational opportunities; and
- (4) Provide support services which will enable participants to engage in job training or education.

**§346- Eligible participants; priority target groups.** (a) Any public assistance recipient or member of a public assistance unit may volunteer to participate in the program. The department shall not be required to allow all volunteers to participate in the workfare program, but shall only require that number for which legislative appropriations are sufficient.

(b) The following shall be the target groups of priority under the workfare program, with the highest priority listed first and the remaining priorities listed in descending order:

- (1) Principal earner in an assistance unit with two parents;
- (2) Single parent at least eighteen years of age with one or more children, at least one of whom is below eighteen years of age;
- (3) Unmarried teenage mother;
- (4) Unmarried pregnant teenager;
- (5) Single parent at least eighteen years of age with one or more children, none of whom are below eighteen years of age; and
- (6) Other public assistance recipient not in any of the previous target groups.

The department may establish quotas under the workfare program for the target groups which reflect the priorities of this subsection.

(c) The age of the recipient and, if applicable, the age or ages of the recipient's child or children on the date of acceptance into the workfare program shall determine the target group to which the recipient belongs.

(d) Volunteering for the workfare program shall be deemed to meet any public assistance eligibility condition requiring registration with a job

training program. Participation in the workfare program shall be deemed to meet any public assistance standard requiring participation in a job training program.

(e) A person who, because of income earned from employment under a program component, becomes ineligible for public assistance shall remain eligible to participate under the workfare program for the duration specified under section 346-

**§346- Program components.** The components of the workfare program shall be:

- (1) Career planning;
- (2) Job training;
- (3) Job placement;
- (4) Education; and
- (5) Support services.

**§346- Career planning component.** Under the career planning component, the department shall assess the participant's skills, knowledge, and capability and capacity for permanent employment in general and in specific professions, occupations, or vocations; offer career guidance; and, with the assistance and approval of the participant, establish and approve a specific job training or education plan for the participant. The department may contract with a public agency or private nonprofit organization to administer this component.

**§346- Job training component.** (a) The job training component shall have two subcomponents: the job training subcomponent and supported work subcomponent.

(b) Under the job training subcomponent, the department shall arrange the placement of a participant in a job training program administered by a public agency or private nonprofit organization. The department shall contract with a public agency or private nonprofit organization which administers a job training program to train a participant under that program. The department shall pay the public agency or private nonprofit organization for administrative and vocational training expenses incurred in connection with the workfare program, but shall not make any payment to the agency, organization, or any employer towards the compensation of the participant for employment during on-the-job training.

(c) Under the supported work subcomponent, the department shall arrange for on-the-job training of a participant with a private employer. A participant in the supported work subcomponent may start with part-time work under close supervision and advance to more responsibilities and full-time work. The department may enter into an agreement with the employer to assume part of the compensation for the participant, but the department shall not make any payment of compensation directly to the participant. In order to participate in the supported work subcomponent, the participant shall notify the private employer that the participant is a recipient of public assistance as provided under section 393-17. The department shall not allow the participant while participating in the supported work subcomponent to receive an amount of income which would make the participant ineligible for medical assistance. The supported work subcomponent shall be designed for the participant with little recent work experience, minimal job skills, or a sporadic employment history; provided that any participant, even one who does not meet the conditions, may participate in this subcomponent if so choosing.

## ACT 345

The department may contract with a public agency or private non-profit organization to administer this subcomponent.

**§346- Job placement component.** Under the job placement component, the department shall conduct job search and placement activities for a participant. The department may contract with a public agency or private agency or private nonprofit organization to administer this component.

**§346- Education component.** (a) Under the education component, the department shall pay for the cost of a formal education program for a participant. For the purpose of this section, a "formal education program" means:

- (1) Adult education courses of the department of education which prepare the participant for a job, enhance the participant's reading, writing, speaking, or computing skills, or lead to a general equivalency high school diploma from the department of education. The department may seek to have the fees for adult education courses waived under section 301-4;
- (2) Trade, vocational, or technical education courses from a school licensed by the department of education under chapter 300;
- (3) Courses to train or educate a participant to engage in a profession, occupation, or vocation which are provided by a school registered by a professional, occupational, or vocational regulatory board or commission administratively under the department of commerce and consumer affairs;
- (4) Higher education courses in an accredited community college which will prepare the participant for employment; and
- (5) Other formal education programs approved by the department of social services and housing.

The department may provide for the payment of the formal education program by issuing to the participant vouchers which are presentable to the school for payment of tuition and other fees and redeemable at the face amount when presented to the department by the school or by making direct payment to the school. The department may contract with a public agency or private nonprofit organization to administer this subcomponent; provided that the department shall approve the formal education program of a participant and shall not delegate the approval responsibility to another public agency or a private nonprofit organization.

**§346- Support services component.** (a) The support services component shall have three subcomponents: transportation services, child day care services, and medical assistance.

(b) Under the transportation services subcomponent, the department shall grant to a participant a cash amount, not to exceed \$10 a day, for the transportation necessary for the participant's participation in another program component under this part. The moneys may be used for the cost of transportation of the participant and participant's child if necessary for the participant to participate in the program component. The department shall approve the amount granted upon satisfaction that the transportation services to be used are necessary and economical. Moneys granted under this subcomponent shall be used only for the cost of the transportation approved by the department.

(c) Under the child day care support services subcomponent, the department shall pay for child day care services while a participant participates in another program component under this part. The department may pay for the child day care services by issuing vouchers to the participant



which are presentable to a child care facility as payment for child day care and redeemable at the face amount when presented to the department by the operator of the facility, by making direct payment to a child care facility for the day care of a specific child, or by contracting with a child care facility to provide day care for children of participants referred by the department. For the purpose of this subsection, "child care facility" means a facility licensed under part VIII.

(d) Under the medical assistance subcomponent, the department shall provide Medicaid coverage for ninety days immediately following termination of financial assistance through employment placement.

**§346- Choice by program component.** A participant may choose to participate in any program component, more than one program component simultaneously, and change from one program component or job training subcomponent to another while participating. The participant's choice of a program component, desire to participate in more than one program component, desire to engage in a job training or educational activity or receive a benefit under a program component, or change from one program component or job training subcomponent to another shall be approved by the department or, if authorized by the department and not contrary to any other provision of this part, by the appropriate contractor.

**§346- Duration of participation.** A participant may participate in the workfare program for not more than two years from the date of acceptance in the program or not more than six months after termination of eligibility for public assistance, whichever occurs sooner.

**§346- Public works projects and public service employment; not authorized.** No participant in the workfare program shall be employed in public works projects under section 346-31 or public service employment under part V.

**§346- Penalty.** Any person who knowingly obtains, attempts to obtain, or aids another person in obtaining or attempting to obtain any service or benefit under this part to which not entitled shall be guilty of a misdemeanor.

**§346- Coordination.** The department shall coordinate the workfare program with other employment programs to assist participants in becoming self-supporting.

**§346- Rules.** The department may adopt rules in accordance with chapter 91 for the purposes of this part.

**§346- Annual report.** The department shall submit a report on the workfare program to the legislature prior to the convening of each regular session."

SECTION 2. Section 346-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department of social services and housing and its agents shall keep such records as may be necessary or proper in accordance with this chapter. All applications and records concerning any applicant or recipient shall be confidential. The use or disclosure of information concerning applicants and recipients shall be limited to:

- (1) Persons duly authorized by the State or the United States in connection with their official duties, when the official duties are

- directly connected with the administration of any form of public assistance, medical assistance, food stamps, or social services;
- (2) Purposes directly connected with any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any and all forms of public assistance, food stamps, medical assistance, or social services, including but not limited to disclosure by the department of information and documents to police departments, prosecutors' offices, the attorney general's office, or any other state, county, or federal agency engaged in the detection, investigation, or prosecution of violations of applicable state, county, and federal laws or regulations regarding any and all aspects of theft, fraud, deception, or overpayment in connection with any aspect of public assistance, food stamps, medical assistance, or social services; provided that disclosure by recipient agencies and personnel is permitted under this section to the extent reasonably necessary to carry out the functions for which the information was provided;
  - (3) Disclosure to the extent necessary to provide services for applicants and recipients, to determine eligibility, or to determine the amount of public assistance, such determination to include but not be limited to verification of information provided by the recipient of public assistance, medical assistance, or food stamps, or to determine the type, kind, frequency, and amount of social services, including health and mental health related services needed;
  - (4) Disclosure to banks, financial institutions, or any other payor of a public assistance warrant or check of any and all information indicating that a public assistance warrant or check honored by the bank, institution, or payor has been forged or otherwise wrongfully presented for payment;
  - (5) Federal agencies responsible for the administration of federally assisted programs, which provide assistance, in cash or in kind, for services, directly to individuals on the basis of need; and certification of receipt of aid to families with dependent children to an employer for purposes of claiming tax credit under Public Law 94-12, the Tax Reduction Act of 1975, shall be permitted;
  - (6) Employees acting within the scope and course of their employment of such recognized social welfare organizations as may be approved by the department;
  - (7) Purposes directly connected with any investigation, prosecution, or criminal proceeding conducted in connection with the licensure or operation of an adult day care center, including but not limited to disclosure by the department of information and documents to police departments, prosecutors' offices, the attorney general's office, or any other state, county, or federal agency engaged in the detection, investigation, or prosecution of violations of applicable state, county, and federal laws or regulations; [and]
  - (8) Disclosure to the child support enforcement agency for obtaining or enforcing a child support order under chapter 576D[.]; and
  - (9) Purposes directly connected to and necessary for the career planning, job training, education, job placement, or employment of participants in the workfare program under part ."

SECTION 3. Section 346-29, Hawaii Revised Statutes, is amended to read as follows:

**“§346-29 Applications for public assistance; manner, form, conditions.**

Applications for public assistance under this chapter shall be made by the applicant, or by someone acting in the applicant’s behalf, in the manner, place, and form prescribed by the department.

No applicant shall be entitled to public assistance under this chapter who has sufficient income or other resources to provide a standard above that provided in this chapter, or who is an inmate of any public institution as long as the Social Security Act precludes the use of federal funds to provide public assistance to an inmate of such an institution, but an inmate of such an institution mentioned in this section may apply for assistance to begin after the inmate’s discharge from the institution. In determining the needs of an applicant or recipient for public assistance by the department, the department:

- (1) Shall disregard such amounts of earned or unearned income and resources as required by the Social Security Act or other federal acts, to receive federal matching funds and may disregard such additional amounts as these acts permit, now or in the future, to be disregarded.
- (2) Shall consider as net income in all cases such income as the Social Security Act or other federal acts may require the department to consider for receipt of federal matching funds and may consider such additional income and resources as these acts may permit, now or in the future, to be considered.
- (3) Shall disregard a total of \$1,000 in assets in determining the needs of persons for financial assistance; provided that the amount to be disregarded, shall not exceed standards under federally funded financial assistance programs. This provision shall not apply to persons eligible for Federal Supplemental Security Income benefits. In determining the needs of such persons, the department shall apply the resource retention requirements under the Federal Supplemental Security Income Program.
- (4) Shall apply the resource retention requirements under the Federal Supplemental Security Income Program in determining the needs of a single person for medical assistance only.
- (5) Shall apply the resource retention requirements under the Federal Supplemental Security Income Program in determining the needs of a family of two persons for medical assistance only and an additional \$250 for each additional person included in an application for medical assistance only.
- (6) Shall disregard amounts of emergency assistance granted under section 346-65.
- (7) Shall not consider as income or resources any payment for services to or on behalf of, or any benefit received by, a participant under the workfare program of part , other than wages. Wages earned by a participant while participating in the workfare program shall be considered income of the participant, unless the wages are excluded or disregarded under any other law.

In determining eligibility for medical assistance, the department shall require from all applicants and recipients the assignment of any benefits due

## ACT 345

to a third party liability. Any rights or amounts so assigned shall be applied against the cost of medical care paid under this chapter.

The director shall adopt rules pursuant to chapter 91 defining assets and to determine eligibility for medical assistance; provided that the cash surrender value of life insurance policies owned by persons included in an application shall be treated as assets.”

SECTION 4. Section 392-5, Hawaii Revised Statutes, is amended to read as follows:

“§392-5 Excluded services. “Employment” as defined in section 392-3 does not include the following service:

- (1) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, performed in any calendar quarter by an individual if the cash remuneration paid by the employer for such service is less than \$225;
- (2) Service not in the course of the employer’s trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employer to perform the service. An individual shall be deemed to be regularly employed to perform service not in the course of the employer’s trade or business during a calendar quarter only if (A) on each of some twenty-four days during the quarter the individual performs the service for some portion of the day, or (B) the individual was regularly employed (as determined under [clause] subparagraph (A)) by the employer in the performance of the service during the preceding calendar quarter;
- (3) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;
- (4) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except (A) the service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States), and (B) the service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employer who, for some portion in each of twenty different calendar weeks in either the current or preceding calendar year, had in the employer’s employ one or more persons performing the service, whether or not the weeks were consecutive and whether or not the same individuals performed the service in each week, and (C) service performed in connection with the catching or taking of salmon or halibut for commercial purposes;
- (5) Service performed by an individual in the employ of the individual’s son, daughter, or spouse, and service performed by a child

- under the age of twenty-one in the employ of the child's father or mother;
- (6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter;
  - (7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1954;
  - (8) Service with respect to which temporary disability compensation is payable for sickness under a temporary disability insurance system established by an act of Congress;
  - (9) Service performed in any calendar quarter in the employ of any nonprofit organization exempt from income tax under section 501 of the Internal Revenue Code of 1954, if (A) the remuneration for such service is less than \$50, or (B) the service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university, or (C) the service is performed by a duly ordained, commissioned, or licensed minister or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of nonsecular duties required by the order, or (D) the service is performed for a church by an employee who fails to meet the eligibility requirements of section 392-25;
  - (10) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents, if (A) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) eighty-five per cent or more of its income consists of amounts collected from members and amounts contributed by the employer of the members for the sole purpose of making such payments and meeting expenses;
  - (11) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents or their designated beneficiaries, if (A) admission to membership in the association is limited to individuals who are officers or employees of the United States government, and (B) no part of the net earnings of the association inures (other than through such payments) to the benefit of any private shareholder or individual;
  - (12) Service performed in the employ of a school, college, or university, not exempt from income tax under section 501 of the Internal Revenue Code of 1954, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college, or university;
  - (13) Service performed in the employ of any instrumentality wholly owned by a foreign government, if: (A) the service is of a character similar to that performed in foreign countries by employees

of the United States government or of an instrumentality thereof; and (B) the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;

- (14) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;
- (15) Service performed by an individual for an employer as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the employer is performed for remuneration solely by way of commission;
- (16) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
- (17) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employer during the period covered by the employer's duly approved election, are deemed to be performed entirely within the agency's state;
- (18) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation;
- (19) Domestic, which includes attendant care, and day care services authorized by the department of social services and housing under the Social Security Act, as amended, performed by an individual in the employ of a recipient of social service payments;
- (20) Service performed by a vacuum cleaner salesman for an employing unit, if all such services performed by the individual for such employing unit are performed for remuneration solely by way of commission[.]; or
- (21) Service performed by a participant in the workfare program for an employing unit under the supported work component of section 346- ."

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1.00, or so much thereof as may be necessary for fiscal year 1987-1988, for the workfare program established under this Act.

The sum appropriated shall be expended by the department of social services and housing for the purposes of this Act.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 1987.

(Approved June 29, 1987.)

## ACT 346

H.B. NO. 14

A Bill for an Act Making an Appropriation for Sugar Research and Development.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** The legislature finds that the sugar industry is the largest agricultural industry in Hawaii and is a vital component of the State's economic base. The legislature further finds that the adverse effects of losing this industry would be catastrophic to the State. The legislature also finds that the sugar industry continues to experience adverse economic conditions, and it is in the public interest to continue the measures enacted in prior years to assist and save the sugar industry.

The purpose of this Act is to provide funds for research performed by the industry and thereby offset the costs to the industry.

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000, or so much thereof as may be necessary for fiscal year 1987-1988, for sugar research and development; provided that \$250,000 shall be used for research and development of alternate crops and by-products; and provided further that no funds shall be made available under this Act unless the Hawaiian Sugar Planters' Association provides a dollar for dollar match of funds for the purpose for which this sum is appropriated.

**SECTION 3.** The sum appropriated shall be expended by the governor's agriculture coordinating committee for the purposes of this Act.

**SECTION 4.** This Act shall take effect on July 1, 1987.

(Approved June 29, 1987.)

## ACT 347

H.B. NO. 410

A Bill for an Act Relating to Insurance.

**See Volume II.**

## ACT 348

S.B. NO. 361

A Bill for an Act Relating to Insurance.

**See Volume II.**

## ACT 349

S.B. NO. 1525

A Bill for an Act Relating to Insurance.

**See Volume II.**

## A Bill for an Act Relating to Natural Area Reserves System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 195, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§195- Alienation of natural area reserves. Natural area reserves shall be held in trust and shall not be alienated except to another public use upon a finding by the department of an imperative and unavoidable public necessity.

§195- Reserves system management plan. The department, after consulting the most comprehensive up-to-date compilation of scientific data on the communities of the natural flora and fauna of Hawaii, shall prepare a comprehensive reserves system management plan based upon such information to accomplish the purposes of this chapter.”

SECTION 2. Section 195-2, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “natural reserve area” to read:

““Natural [reserve area]” area reserve” means an area designated as a part of the Hawaii natural area reserves system, pursuant to criteria established by the commission.”

2. By adding a new definition to be appropriately inserted and to read as follows:

““Cooperating entity” or “cooperator” means a private nonprofit land-holding organization or any other body deemed by the department as satisfactorily able to assist in the identification, acquisition, and management of natural area reserves.”

SECTION 3. Section 195-4, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§195-4]]~~ **Powers of the department.** [The department of land and natural resources may designate] To preserve, manage, and protect the reserves system, the department is authorized, in addition to any other powers, to:

(1) Designate and bring under its control and management, as part of the reserves system any and various areas as follows:

[(1)] (A) State of Hawaii owned land under the jurisdiction of the department may be set aside as a natural area reserve by resolution of the department, subject to the approval of the governor by executive order setting the land aside for such purposes.

[(2)] (B) New natural area reserves may be established:

[(A)] (i) By gift, devise, grant, reimbursement to cooperators, exchange, or purchase[;] of land or any interest therein including, but not limited to, conservation easements;

[(B)] (ii) By eminent domain pursuant to chapter 101; or



- [(C)] (iii) By the setting aside of State of Hawaii owned land for such purposes by the governor, as provided by section 171-11.
- (2) Cooperate or contract with any federal, state, or county governmental agency, quasi-governmental agency, private organization, or individual in carrying out the purpose of this chapter.
  - (3) Acquire by gift, devise, grant, or donation any personal property to be used in the acquisition or management, or both, of natural area reserves.
  - (4) Implement, after consultation with the commission and based on the most comprehensive up-to-date compilation of scientific data, the acquisition, management, protection, and use of natural area reserves.
  - (5) Prepare and take the necessary steps to implement the management plan set forth in section 195- .”

SECTION 4. Section 195-6, Hawaii Revised Statutes, is amended to read as follows:

“**[[§195-6]] Natural area reserves system commission.** There shall be a natural area reserves system commission, hereinafter called the “commission”. The commission shall consist of eleven members who shall be appointed in the manner and serve for the term set in section 26-34. Six of the members of the commission shall be persons possessing scientific qualifications as evidenced by an academic degree in wildlife or marine biology, botany, forestry, ecology, resource management, biogeography, zoology,<sup>1</sup> or geology. The chairman of the board of land and natural resources, the superintendent of education, the director of planning and economic development, the chairman of the board of agriculture and the president of the University of Hawaii, or their designated representatives, shall serve as ex officio voting members. The governor shall appoint the chairman from one of the appointed members of the commission. The members shall receive no compensation for their services on the commission but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of their duties.

The commission shall be a part of the department [of land and natural resources] for [administration] administrative purposes as provided in section 26-35.

Any action taken by the commission shall be by a simple majority of its members. Six members of the commission shall constitute a quorum to do business.

The commission may engage employees necessary to perform its duties, including administrative personnel, as provided by section 26-35.

The commission shall adopt rules guiding its conduct and shall maintain a record of its activities and actions.”

SECTION 5. Section 195-7, Hawaii Revised Statutes, is amended to read as follows:

- “**[[§195-7]] Powers and duties.** The commission shall:
- (1) [Recommend] Establish criteria to be used in determining whether an area is suitable for inclusion with the reserves system;
  - (2) Conduct studies of areas for possible inclusion within the reserves system;

## ACT 351

- (3) Recommend to the governor and the department [of land and natural resources] areas suitable for inclusion within the reserves system;
- (4) [Recommend] Establish policies and criteria regarding [required controls] the management, protection, and permitted uses of areas which are part of the reserves system;
- (5) Advise the governor and the department [of land and natural resources] on any matter relating to the preservation of Hawaii's unique natural resources; [and]
- (6) Develop ways and means of extending and strengthening presently established preserves, sanctuaries, and refuges within the State[.];
- (7) Advise the department and other public agencies managing state-owned land or natural resources regarding areas under their respective jurisdictions which are or may be appropriate for designation as natural area reserves; and
- (8) In carrying out the above duties, consult the most comprehensive up-to-date compilation of scientific data on the communities of natural flora and fauna of Hawaii."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored<sup>2</sup>.

SECTION 7. This Act shall take effect upon its approval.

(Approved July 2, 1987.)

### Notes

1. Should be underscored.
2. Edited pursuant to HRS §23G-16.5.

## ACT 351

H.B. NO. 735

A Bill for an Act Relating to Natural Area Reserves System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 195, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§195- Natural area reserve fund; heritage program fund; established.** There is hereby established in the state treasury the natural area reserve fund for the heritage program. As used in this section the "heritage program", means a program with a comprehensive natural resource inventory data base for public information which shall include the location of rare plants, animals and natural communities (ecosystems) in the State. The fund shall be administered by the department of land and natural resources, and used to implement the purposes of this chapter."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$125,000, or so much thereof as may be necessary for each fiscal year 1987-1988 and 1988-1989, for the natural area reserve fund for transfers to the heritage program established under the natural area reserves system law; provided that funds shall be made available under this Act only to the extent that private sources provide \$1 for every \$2 appropriated in this Act, for the purposes for which the sum herein is appropriated.

SECTION 3. The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 4. New statutory material is underscored<sup>1</sup>.

SECTION 5. This Act shall take effect on July 1, 1987.

(Approved July 2, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 352**

S.B. NO. 1295

A Bill for an Act Establishing a Guangdong Province Special Exchange Program and Making an Appropriation Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Purpose.** The legislature finds that the establishment of an exchange program between the State of Hawaii and the Guangdong province of the People's Republic of China will be of great benefit to the people of both regions. With Hawaii's leadership in the study of cross-cultural relationships and business practices, and China's vast resources and developing economy, the sharing of ideas and information regarding economic development, trade, science, education, agriculture, tourism, and related activities could only enhance economic prospects for both regions and strengthen Hawaii's role in international trade and commerce in the Pacific Basin and Asia.

The purpose of this Act is to establish a special exchange program between Hawaii and Guangdong province to promote a better understanding between the two regions and assist both regions in fulfilling their economic potentials.

**SECTION 2. Guangdong province special exchange program established.** There is established a Guangdong province special exchange program within the department of planning and economic development for administrative purposes to promote a better understanding between the People's Republic of China and the State of Hawaii on matters of economic development, mutual trade, education, cultural exchange, and other activities of interest to the people of both regions. The special exchange program shall consist of selected Hawaii residents who shall either teach at a school in Guangdong province, study the cultural, social, or economic practices of China, or conduct research on issues that would promote a better understanding of the ways of life within the two regions and assist both regions in fulfilling their economic potentials. Each participant, upon returning to Hawaii, shall share and disseminate their acquired knowledge and experience by means of public presentations, conferences, consultations, or other appropriate means.

**SECTION 3. Guangdong province special exchange program advisory committee; establishment; duties.** (a) There is established the Guangdong province special exchange program advisory committee which shall plan and implement the special exchange program established by this Act. The advisory committee shall consist of three members. One member shall be appointed by the governor, and the president of the senate and the speaker of the house of representatives shall appoint one member each. The advisory

## ACT 353

committee shall select a chairperson from among its members. Members of the advisory committee shall receive no compensation but shall be reimbursed for travel and other necessary expenses incurred in the performance of their duties. The advisory committee shall receive such administrative support as necessary from appropriate resources in the State, both public and private, to carry out its duties.

(b) The advisory committee shall:

- (1) Plan, develop, and implement the special exchange program;
- (2) Select program participants who shall have expertise in areas such as business, public administration, education, engineering, public health, agriculture, tourism, law, and planning; provided that not more than twelve individuals shall be designated as program participants; and
- (3) Submit progress reports of its activities to the legislature prior to the convening of the 1988 and 1989 regular sessions and a final report prior to the convening of the 1990 regular session.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$25,000, or so much thereof as may be necessary for fiscal year 1987-1988, and the same amount is appropriated for fiscal year 1988-1989, to the special exchange program between the State of Hawaii and the Guangdong province of the People's Republic of China. The sum appropriated shall be expended by the department of planning and economic development for the purposes of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 2, 1987.)

## ACT 353

S.B. NO. 1274

A Bill for an Act Relating to Ocean Resources.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the State has always promoted its tourism industry on the basis of Hawaii's natural beauty. This is especially true of Hawaii's coastal areas, beaches, and near-shore ocean waters. The ocean recreation industry of the State is currently valued at approximately \$200 million. The legislature, therefore, finds that the natural beauty of Hawaii's coastal areas, beaches, and near-shore ocean waters are vital to the State's tourism industry.

The legislature further finds that recent events involving oil spills, waste water disposal, and marine life depletion have affected popular ocean and beach areas. The legislature recognizes that the natural resources of the coastal areas are a finite resource and that increased usage of these resources without proper coordination and planning may result in their diminishing value as visitor attractions.

In other states and countries such as Switzerland, Kenya, Costa Rica, and Minnesota there have been instituted resource tourist development plans designed to maintain the long term attractiveness of their environment and natural resources.

The purpose of this Act is to establish a governor's ocean resources tourism development task force to study how the natural beauty of Hawaii's coastal areas, beaches, and near-shore ocean waters might be preserved,

restored, or enhanced for the promotion and development of the ocean recreation and tourism industries.

SECTION 2. There is established a governor's ocean resources tourism development task force. The purpose of the task force shall be to study how the natural beauty of Hawaii's coastal areas, beaches, and near-shore ocean waters might be preserved, restored, or enhanced for the promotion and development of the ocean recreation and tourism industries.

The task force shall consist of seven members, one each to be selected by the governor from the department of planning and economic development's ocean resources office, the department of land and natural resources, the department of transportation, the University of Hawaii, the Hawaii state association of counties, the Hawaii Visitors Bureau, and the ocean recreation council of Hawaii. The representative from the department of planning and economic development's ocean resources office shall chair the task force. The members of the task force selected by the governor shall serve without compensation, but members shall be reimbursed for expenses, including travel expenses, incurred in the performance of their duties.

SECTION 3. The task force shall submit a preliminary report of its findings and recommendations to the legislature twenty days prior to the convening of the 1988 regular session of the legislature. The task force shall submit its final report twenty days prior to the convening of the 1989 regular session of the legislature.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$10,000, or so much thereof as may be necessary for the fiscal year 1987-1988, and the sum of \$10,000, or so much thereof as may be necessary for the fiscal year 1988-1989, for the purposes of this Act. The sum appropriated shall be expended by the governor's ocean resources tourism development task force.

SECTION 5. This Act shall take effect on July 1, 1987.

(Approved July 2, 1987.)

## ACT 354

S.B. NO. 776

A Bill for an Act Relating to Elderly Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Part III of Chapter 359, Hawaii Revised Statutes, is repealed.

SECTION 2. Chapter 359G, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

### "PART III. HOUSING FOR ELDERLY PERSONS

**§359G-71 Definitions.** The following terms, wherever used or referred to in this part shall have the following respective meanings, unless a different meaning clearly appears from the context:

"Elderly person" means a person who is a bona fide resident of the State and who either:

- (1) Has attained the age of 62; or
- (2) Is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment

which can be expected to result in death or to be of long, continued, and indefinite duration; or

- (3) Has a physical impairment expected to be of long, continued and indefinite duration which substantially impedes the person's ability to live independently and which could be improved by more suitable housing and conditions.

"Housing project" or "project" shall include all real and personal property, buildings and improvements, offices, lands for gardening or farming, and community facilities acquired or constructed or to be acquired or constructed under this part to provide safe and sanitary dwelling accommodations for elderly persons. The terms may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith under this part; and the terms shall include all other real and personal property and all tangible or intangible assets held or used in connection with a housing project developed or administered under this part.

**§359G-72 Elderly housing, priority.** The authority shall develop elderly housing projects which shall be deemed to have a priority in the State's overall housing development plans.

**§359G-73 Investigation of housing conditions.** The Hawaii housing authority may investigate housing and housing conditions of elderly persons throughout the several areas within the State where, in its opinion, a number of such persons may reside. In making the investigations in such areas and in making the findings or determinations that it is necessary or desirable that housing projects be developed by the authority within any such area or areas, the authority shall have all of the powers, privileges, and immunities that the authority has under sections 356-10 and 356-13.

**§359G-74 State assistance to public agencies and eligible developers and nonprofit corporations.** (a) The authority may provide assistance and aid to public agencies, eligible developers and nonprofit corporations in developing and constructing new housing projects and rehabilitating old housing for elderly persons of low income by making available loans from the elderly housing revolving fund, created by section 359G-79.

(b) State financial assistance granted to public agencies and eligible developers shall be in an amount not in excess of the development cost of the project. In anticipation of final payment of such financial assistance, the authority in accordance with such assistance, may make temporary advances to the public agencies and eligible developers for preliminary planning expense or other development cost of such project or projects.

(c) The authority may charge service fees and premiums upon the issuance of any interim construction loan under this section. The interest paid on such loans and service fees and premiums shall be paid into the elderly housing revolving fund created by section 359G-79.

(d) The rates of interest on loans secured and made under this part shall be established by the authority.

**§359G-75 Tenant selection; dwelling accommodations; rentals.** In the administration of housing projects, the Hawaii housing authority shall observe the following with regard to tenant selections, dwelling accommodations and rentals:

- (1) Except as hereinafter provided, it shall accept only elderly persons as tenants in the housing projects.

- (2) It may accept as tenants in any housing unit one or more persons, related or unrelated by marriage. It may also accept as a tenant in any dwelling accommodation or in any project, in the case of illness or other disability of an elderly person who is a tenant in the dwelling accommodation or in the project, a person designated by the elderly person as the elderly person's companion and who is approved by the authority, although the person is not an elderly person; provided that the person shall cease to be a tenant therein upon the recovery of, or removal from the project of, the elderly person.
- (3) It may rent or lease to an elderly person a dwelling accommodation consisting of any number of rooms as the authority deems necessary or advisable to provide safe and sanitary accommodations to the proposed occupant or occupants thereof without overcrowding.
- (4) Notwithstanding that the elderly person has no written rental agreement or that it has expired, so long as the elderly person continues to tender the usual rent to the authority or proceeds to tender receipts for rent lawfully withheld, no action or proceeding to recover possession of the dwelling unit may be maintained against the elderly person, nor shall the authority otherwise cause the elderly person to quit the dwelling unit involuntarily, demand an increase in rent from the elderly person, or decrease the services to which the elderly person has been entitled during hospitalization of the elderly person due to illness or other disability.

**§359G-76 Elderly housing revolving fund.** There is created an elderly housing fund in the State treasury. Notwithstanding any law to the contrary, funds appropriated for the purposes of this part and all moneys received or collected by the authority under provisions of this part shall be deposited into the elderly housing revolving fund. Funds may be further deposited into the elderly housing revolving fund from the dwelling unit revolving fund as prescribed under section 359G-10.

**§359G-77 Powers in addition to powers.** The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law, and nothing in this part shall be construed as limiting any other powers of the Hawaii housing authority.

**§359G-78 Rules.** The authority shall adopt rules pursuant to chapter 91 necessary for the purposes of this part.

**§359G-79 Funding for elderly housing projects.** The director of finance is authorized to issue general obligation bonds of the State. The proceeds from the sale of such bonds shall be deposited into the elderly housing fund created by section 359G-76 and shall be used for the purposes of this part. Pending the receipt of funds from the issuance and sale of such bonds, the amount required for the purposes of this part shall be advanced from the general fund of the State."

**SECTION 3.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$1, or so much thereof as may be necessary which shall be deposited into the Elderly Housing Revolving Fund.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved July 2, 1987.)

A Bill for an Act Relating to the Hawaii Community Development Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the waterfront of Honolulu is a vital sector of the city with great potential to serve the economic, maritime, and recreational needs of the State. The legislature further finds that planning for the waterfront area could be more effective and cost-efficient if one body had jurisdiction over that area. The purpose of this Act is to commence that process by enabling the Hawaii Community Development Authority to assume the authority and responsibility of planning and regulating development activities in the waterfront area from Kewalo Basin to Fort Armstrong.

SECTION 2. Section 206E-32, Hawaii Revised Statutes, is amended to read as follows:

**“§206E-32 District; established, boundaries.** The Kakaako community development district is established. The district shall include that area bounded by King Street; Piikoi Street from its intersection with King Street to Ala Moana Boulevard; Ala Moana Boulevard, inclusive, from Piikoi Street to its intersection with [Koula Street; Koula Street, inclusive, from its intersection with Ala Moana Boulevard to its intersection with Ilalo Street; Ilalo Street, inclusive, from its intersection with Koula Street to Ohe Street; Ohe Street, inclusive, from its intersection with Ilalo Street to Kelikoi Street; Kelikoi Street, inclusive, from its intersection with Ohe Street to Keawe Street; the property line representing the Ewa boundary of property identified by tax map key 2-1-60:08 from the intersection of Kelikoi Street and Keawe Street to the shoreline;] the Ewa boundary of Ala Moana Park also identified as the Ewa boundary of tax map key 2-3-37:01; the Ewa boundary of tax map key 2-3-37:01 from its intersection with Ala Moana Boulevard to the shoreline; the shoreline from its intersection with the property line representing the Ewa boundary of property identified by tax map key [2-1-60:08] 2-3-37:01 to the property line between Pier 2 and Pier 4; the property line between Pier 2 and Pier 4 from its intersection with the shoreline to Ala Moana Boulevard; Ala Moana Boulevard from its intersection with the property line between lands identified by Pier 2 and Pier 4 to Punchbowl Street; and Punchbowl Street to its intersection with King Street.

The district shall also include all fast and submerged lands bounded by Nimitz Highway beginning at the Diamond Head termination of the Nimitz Highway-Irwin Park boundary along Nimitz Highway to its intersection with the Diamond Head boundary of Pier 4; along Pier 4; from the makai end of Pier 4 to the intersection of Piers 8 and 9; along Pier 8; from the mauka end of Pier 8 to the Diamond Head boundary of Irwin Park; continuing to the point of the Diamond Head termination of the Nimitz Highway-Irwin Park boundary.”

SECTION 3. The area of the Kakaako Community development district which is within the Kakaako Waterfront Park Boundary on the Park Boundary Map in the Kakaako Waterfront Park Study, prepared by the Hawaii Community Development Authority in 1981, shall only be developed as a park.

SECTION 4. Section 206E-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:



“(b) The authority shall consist of eleven voting members. The director of finance, the director of planning and economic development, the comptroller, [and the director of social services,] and the director of transportation, or their respective designated representatives shall serve as ex officio, voting members. Seven members shall be appointed by the governor for staggered terms pursuant to section 26-34; provided that initially, three members shall be selected from a list of ten prospective appointees recommended by the local governing body of the county in which the initial designated district is situated; and provided further that when vacancies occur in any of the three positions for which the members were selected from a list of county recommendations, the governor shall fill such vacancies on the basis of one from a list of four recommendations, two from a list of seven recommendations, or three from a list of ten recommendations. The list of recommendations shall be made by the local governing body of the county. If an additional district is designated by the legislature in a county other than the county in which the initial designated district is situated, the total membership of the authority shall be increased as prescribed above by the appointment of three additional members. All members shall continue in office until their respective successors have been appointed and qualified. Except as herein provided, no member appointed under this subsection shall be an officer or employee of the State or its political subdivisions.”

SECTION 5. Section 206E-5, Hawaii Revised Statutes, is amended by amending subsections (e) and (f) to read as follows:

“(e) The authority shall hold a public hearing on a proposed community development plan pursuant to chapter 91 and, after consideration of comments received and appropriate revision, shall submit the community development plan to the governor for the governor’s approval.

After approval, the governor shall submit to the legislature[, prior to the start of any regular session, the community development plan with a request for appropriation of the required moneys.] requests for appropriations, authorization to issue bonds, or both, to implement the community development plan in an orderly, affordable, and feasible manner. The governor shall submit the requests to the legislature as part of the executive budget or supplemental budget, as appropriate. In addition to the information, data, and materials required under chapter 37, the requests shall be accompanied by:

- (1) Plans, maps, narrative descriptions, and other appropriate materials on the:
  - (A) Locations and design of projects or public facilities proposed to be funded; and
  - (B) Phase of the community development plans proposed to be implemented with the requested funds; and
- (2) Other information deemed by the governor of significance to the legislature regarding the projects or public facilities proposed to be funded, including a discussion of the public benefits intended by, and adverse effects which may result from, implementation of the projects or public facilities.

(f) The authority may amend the community development plan [pursuant to chapter 91] as may be necessary. Amendments shall be made in accordance with chapter 91.”

SECTION 6. Section 206E-6, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

## ACT 356

“(e) The authority [may] shall adopt rules pursuant to chapter 91, and may amend the rules from time to time, providing for the method of undertaking and financing public facilities in an assessment area or an entire community development district. The rules adopted pursuant to this section [may] shall include, but are not limited to, the following: methods by which the authority shall establish assessment areas; the method of assessment of real properties specially benefited; the costs to be borne by the authority, the county in which the public facilities are situated, and the property owners; the procedures before the authority relating to the creation of the assessment areas by the owners of real property therein, including provisions for petitions, bids, contracts, bonds, and notices; provisions relating to assessments; provisions relating to financing, such as bonds, revolving funds, advances from available funds, special funds for payment of bonds, payment of principal and interest, and sale and use of bonds; provisions relating to funds and refunding of outstanding debts; and provisions relating to limitations on time to sue, and other related provisions.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved July 2, 1987.)

## ACT 356

H.B. NO. 1000

A Bill for an Act Relating to Promoting a Dangerous Drug in the Second Degree.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 712-1240, Hawaii Revised Statutes, is amended by amending the definition of “dosage unit” to read:

“~~[[[~~(13)~~]]]~~<sup>1</sup> “Dosage unit” for purposes of section 712-1241 and section 712-1242 means an entity designed and intended for singular consumption or administration.”

SECTION 2. Section 712-1242, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of promoting a dangerous drug in the second degree if he knowingly:

- (a) Possesses fifty or more capsules, tablets, ampules, dosage units, or syrettes, containing one or more dangerous drugs; or
- (b) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of:
  - (i) One-eighth ounce or more, containing heroin, morphine, or cocaine or any of their respective salts; or
  - (ii) One-half ounce or more, containing any dangerous drug; or
- (c) Distributes any dangerous drug in any amount.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 2, 1987.)

## Note

1. So in original.

## ACT 357

H.B. NO. 223

A Bill for an Act Relating to Film Production.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**"§201- Consolidated film permit processing.** (a) The department shall consult with state and county agencies in order to identify sites which can be used for making visually recorded productions under such terms and conditions as may be determined by the state or county agency having jurisdiction over the sites.

(b) The department may accept an application from any person who proposes to make a motion picture, television show, television commercial, or other visually recorded production at one or more sites on state or county lands, whether or not set aside under section 171-11.

(c) The applicant shall identify the sites to be covered by the permit and provide such other information as may be required by the department.

(d) The department may approve and issue a permit to film at any of the sites identified by the appropriate state or county agency under subsection (a). If any site requested for use by the applicant is not identified under subsection (a), the department shall consult with the appropriate state or county agency having jurisdiction over the site to obtain a permit. If the matter of a permit cannot be resolved in this manner, the department shall refer the application to the appropriate state or county agency to obtain a permit.

(e) The department is authorized to make changes to and extensions of any approved permits so long as such changes and extensions do not conflict with the policies, terms, and conditions set forth by the agency having jurisdiction over the site in question.

(f) The department may establish memoranda of agreement or adopt rules to implement the intent and purposes of this section.

(g) Nothing in this section shall be construed as waiving the authority of any county or the department of transportation of the State to require a person to obtain a permit from the department or county where the production takes place on or from a public highway."

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect on July 1, 1987.

(Approved July 2, 1987.)

## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 358

H.B. NO. 251

A Bill for an Act Relating to Public Contracts.

## ACT 359

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 103, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§103- Transcription of instructional materials.** Contracts for the procurement of instructional materials shall include a provision whereby the State has the right to transcribe and reproduce the material in braille, large print, recordings, or other media for the use of handicapped students, including the visually handicapped, unable to use the material in conventional print and form. Such right shall include the right to make those corrections, revisions, and other modifications as may be necessary.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved July 2, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 359

H.B. NO. 849

A Bill for an Act Relating to Domestic Abuse.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 586-3, Hawaii Revised Statutes, is amended to read as follows:

**“§586-3 Order for protection.** (a) There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(b) A petition for relief under this chapter may be made by any family or household member on his or her own behalf or on behalf of a family or household member who is a minor, who is incapacitated as defined in section 560:5-101(2), or who is physically unable to go to the appropriate place to complete or file the petition.

(c) A petition for relief shall be in writing and upon forms provided by the court and shall allege that a recent past act or acts of abuse may have occurred, or that the threats of abuse make it probable that acts of abuse may be imminent[;], or that extreme psychological abuse or malicious property damage is imminent; and shall be accompanied by an affidavit made under oath or a statement made under penalty of perjury stating the specific facts and circumstances from which relief is sought.

(d) The family court shall designate an employee or appropriate nonjudicial agency to assist the person in completing the petition.”

SECTION 2. Section 586-1, Hawaii Revised Statutes, is amended to read as follows:

**“[[§586-1]] Definitions.** As used in this chapter:

“Domestic abuse” means:

- (1) Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, extreme psychological abuse or malicious property damage between family or household members; or

- (2) Any act which would constitute an offense under section 709-906, or under part V or VI of chapter 707 committed against a minor family or household member by an adult family or household member.

“Extreme psychological abuse” means an intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the individual, and that serves no legitimate purpose; provided that such course of conduct would cause a reasonable person to suffer extreme emotional distress.

“Malicious property damage” means an intentional or knowing damage to the property of another, without his consent, with an intent to thereby cause emotional distress.

“Family and household members” means spouses or former spouses, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 2, 1987.)

## ACT 360

H.B. NO. 853

A Bill for an Act Relating to Abuse of Family and Household Members.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 709-906, Hawaii Revised Statutes, is amended to read as follows:

**“§709-906 Abuse of family and household members; penalty.** (1) It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member, or to refuse compliance with the lawful order of a police officer under subsection (4). The police, in investigating any complaint of abuse of a family or household member may, upon request, transport the abused person to a hospital or safe shelter.

For the purposes of this section, “family or household member” means spouses or former spouses, parents, children, and persons jointly residing or formerly residing in the same dwelling unit.

(2) Any police officer may, with or without a warrant, arrest a person if the officer has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member, and that the person arrested is guilty thereof.

(3) A police officer who has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member shall prepare a written report.

(4) Any police officer may, with or without a warrant, take the following course of action where the officer has reasonable grounds to believe that there was recent physical abuse or harm inflicted by one person upon a family or household member, whether or not such physical abuse or harm occurred in the officer’s presence:

**ACT 360**

- (a) The police officer may make reasonable inquiry of the family or household member upon whom the officer believes recent physical abuse or harm has been inflicted and other witnesses as there may be; and
- (b) Where the police officer has reasonable grounds to believe that there is probable danger of further physical abuse or harm being inflicted by one person upon a family or household member, the police officer may lawfully order such person to leave the premises for a cooling off period of twelve hours; and
- (c) All persons who are ordered to leave as stated above shall be given a written warning citation stating the date, time, and location of the warning and stating the penalties for violating the warning. A copy of the warning citation shall be retained by the police officer and attached to a written report which shall be submitted in all cases. A third copy of the warning citation shall be given to the abused person; and
- (d) If the person so ordered refuses to comply with the order to leave the premises or returns to the premises before the expiration of twelve hours, the person shall be placed under arrest for the purpose of preventing further physical abuse or harm to the family or household member.

(5) Abuse of a family or household member, and refusal to comply with the lawful order of a police officer under subsection (4) are misdemeanors; provided that a person convicted under this section shall serve a minimum jail sentence of forty-eight hours and be required to undergo any available domestic violence treatment and counseling program as ordered by the court.

(6) Any police officer who arrests a person pursuant to this section shall not be subject to any civil or criminal liability; provided that the police officer acts in good faith, upon reasonable belief, and does not exercise unreasonable force in effecting such arrest.

(7) The family or household member who has been physically abused or harmed by another person may petition the family court, with the assistance of the prosecuting attorney of the applicable county, for a penal summons or arrest warrant to issue forthwith, or may file a criminal complaint through the prosecuting attorney of the applicable county.

(8) The respondent shall be taken into custody and brought before the family court at the first possible opportunity. The court may then dismiss the petition or hold the respondent in custody, subject to bail. Where the petition is not dismissed, a hearing shall be set.

(9) This section shall not operate as a bar against prosecution under any other section of this Code in lieu of prosecution for abuse of a family or household member.

(10) It shall be the duty of the prosecuting attorney of the applicable county to assist any victim under this section in the preparation of the penal summons or arrest warrant.

(11) This section shall not preclude the physically abused or harmed family or household member from pursuing any other remedy under law or in equity.

(12) Upon dismissal of such person and discharge of the proceeding against the person under this section, such person, if the offense is the only offense against the other family or household member for a period of not less than [one year,] five years, may apply for an order to expunge from all official records all recordation relating to the person's arrest, trial, finding of guilt,

and dismissal and discharges pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against the person were discharged and that no other similar offenses were charged against the person for a period of not less than [one year,] five years, it shall enter such order.

(13) If a person is ordered by the court to undergo treatment or counseling at any available domestic violence program, that person shall provide adequate proof of compliance with the court order as instructed by the court."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 2, 1987.)

## ACT 361

H.B. NO. 1209

A Bill for an Act Relating to Environmental Quality in Harbors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 342, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

**"§342- Affirmative duty to report discharges.** (a) Any person who has caused an unlawful discharge under section 342-33(a) has an affirmative duty to report the incident to the director of health within twenty-four hours of the discharge.

(b) Upon notification, the department may investigate the incident or report and may assess the adequacy of the corrective action taken by the person responsible for the discharge. If the department finds that the corrective actions taken are inadequate to protect the environment or the public health or safety, the department may prescribe additional actions to be taken and the time in which such actions must be taken.

(c) Any person who fails to report an unlawful discharge or who fails to execute corrective actions as prescribed by the department shall be subject to a fine for each day in which the violation occurs in an amount necessary for the clean-up expenses, but in no event shall such fine exceed \$10,000 for each day of violation. Legal interest shall accrue from the first day of violation."

SECTION 2. Section 266-25, Hawaii Revised Statutes, is amended to read as follows:

**"§266-25 Violation of rules; penalty.** Any person who violates any rule made, adopted, and published by the department of transportation as herein provided, or who violates any lawful command of any harbor master, harbor agent, or harbor district manager, while in the discharge of [his] the person's duty, or who violates this chapter, shall be fined not more than [~~\$1,000~~] \$10,000 for each offense, and any vessel, the agents, owner, or crew of which violate the rules of the department or this chapter, shall be fined not more than [~~\$1,000~~] \$10,000 for each violation; provided that in addition to[,] or as a condition to the suspension of the fines and penalties, the court may

## ACT 361

deprive the offender of the privilege of operating or mooring any vessel in state waters for a period of not more than two years."

SECTION 3. Section 342-11, Hawaii Revised Statutes, is amended to read as follows:

**"§342-11 Penalties.** (a) Violation of the vehicular noise control and vehicular smoke emission rules adopted by the department pursuant to this chapter shall constitute a violation as defined in section 701-107 and shall be enforceable by police officers. The fine for this violation shall be not less than \$25 nor more than \$2,500 for each separated<sup>1</sup> offense. Each day of violation shall constitute a separate offense.

(b) Violation of the open burning control rules adopted by the department pursuant to this chapter shall constitute a violation as defined in section 701-107 and shall be enforceable by police officers. The fine for this violation shall not exceed \$10,000 for each separate offense. Each day of the violation shall constitute a separate offense.

(c) Any person who violates this chapter or any rule, other than vehicular noise control, vehicular smoke emission control, and open burning control rules, shall be fined not more than \$10,000 for each separate offense. Each day of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for<sup>1</sup> this subsection, other than the penalty imposed for violations of vehicular noise control, vehicular smoke emission, and open burning rules, shall be considered a civil action.

(d) Any person who knowingly (1) transports any hazardous waste to a storage, treatment, or disposal facility and who does not have a permit under section 342-53(b) to treat, store<sup>1</sup> or dispose of that particular hazardous waste; (2) treats, stores<sup>1</sup> or disposes of hazardous waste without first having a permit under section 342-53(b); or (3) makes a false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with chapter 342, part V, shall be subject to criminal penalties of not more than \$25,000 for each day of violation or to imprisonment not to exceed one year, or both. If the conviction, is for a violation committed after a first conviction, criminal punishment shall be by a fine of not more than \$50,000 for each day of violation, or by imprisonment for not more than two years, or both.

(e) Any person who willfully or negligently violates part III of this chapter or any rule or regulation promulgated by the department pursuant to part III of this chapter shall be punished by a fine of not less than [~~\$2,500~~] \$25,000 nor more than [~~\$25,000,~~] \$100,000, per day of violation or by imprisonment for not more than [~~one year,~~] five years, or both.

(f) Any person who denies, obstructs, or hampers the entrance and inspection by any duly authorized officer or employee of the department of any building,<sup>1</sup> place,<sup>1</sup> which the officer or employee is authorized to enter and inspect shall be fined not more than \$500. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored<sup>2</sup>.

SECTION 5. This Act shall take effect on July 1, 1987.

(Approved July 2, 1987.)



## Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 362

H.B. NO. 428

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds the authority granted to the department of land and natural resources to negotiate and enter into long-term residential leases with persons who were displaced by, or who are the descendants of, the refugees of the 1926 Hoopuloa lava flow has expired. The legislature further finds that all parcels meeting the criteria enumerated in Act 62, Session Laws of Hawaii 1982, have not been awarded.

The purpose of this Act is to re-authorize the negotiation of long-term residential leases between the department of land and natural resources and the displaced Milolii-Hoopuloa residents. Act 62, Session Laws of Hawaii 1982, as amended by Act 83, Session Laws of Hawaii 1984, having expired on January 1, 1987, it is necessary to reenact its provisions and apply them retroactively to January 1, 1987, before an extension is possible.

SECTION 2. The department of land and natural resources is authorized to negotiate and enter into long-term residential leases not to exceed sixty-five years in duration with persons who meet the following criteria:

- (a) Persons who were displaced by, or are descendants of the refugees of, the 1926 Hoopuloa lava flow and who actually resided and continued to reside in the area set aside by Executive Order 473, at some point prior to December 31, 1949; or
- (b) Persons awarded a lot in some manner under the county management of Executive Order 473, and who did not relinquish such right to others or back to the county, and who actually resided in the area set aside by Executive Order 473, at some point prior to December 31, 1949; or
- (c) Persons who resided in the area by virtue of assignment of lot by those persons who were awarded a lot in some manner under the county management of Executive Order 473; or
- (d) Any heir, consanguineous or affined, of any person qualifying under paragraph (a), (b), or (c) of this section who as of May 10, 1982 established residence in the area described in section 3 of this Act; or
- (e) Persons who as of May 10, 1982, resided on a parcel or parcels of land listed in section 4, have permits allowing them to reside on those parcels; and

who can prove their claims to the department of land and natural resources under the provisions of this Act.

SECTION 3. The lands eligible for long-term residential lease negotiations under section 2(a), (b), (c), and (d) of this Act are limited to a portion of those lands situated at Hoopuloa, South Kona, County of Hawaii, State of Hawaii, which were set aside for a public park under the control and management of the board of supervisors of the County of Hawaii with authority to create a Hawaiian village, in keeping with the uniqueness of

## ACT 363

Milolii, pursuant to the governor's Executive Order 473, dated March 19, 1931, comprising an area of 52.6 acres.

SECTION 4. The lands eligible for long-term residential lease negotiations under section 2(e) of this Act are limited to that parcel designated by tax map key 8-9-4-16, together with right-of-way across the school lot.

SECTION 5. Any other law to the contrary notwithstanding, including chapter 171, Hawaii Revised Statutes, the department of land and natural resources is authorized to negotiate and enter into lease agreements, upon consideration of the Milolii-Hoopuloa Community Development Plan, in accordance with the provisions and limitations of this Act; provided that the authority granted by this Act shall expire (1) when leases have been negotiated and recorded in the bureau of conveyances for all parcels meeting the criteria in Section 2 and Section 3, or (2) on January 1, 1989, whichever occurs first.

SECTION 6. Pa'a Pono Milolii, a community association, shall work with the Milolii residents to resolve conflicts utilizing the mediation process of the Aloha Spirit Law with the office of Hawaiian affairs acting as the mediator. Pa'a Pono Milolii shall exhaust all means of notifying and encouraging all eligible applicants.

SECTION 7. This Act shall take effect upon its approval; provided that the provisions of this Act shall apply retroactively to January 1, 1987.

(Approved July 2, 1987.)

## ACT 363

H.B. NO. 430

A Bill for an Act Relating to Handicapped Persons.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 347-13, Hawaii Revised Statutes, is amended to read as follows:

**"§347-13 Blind, partially blind, physically handicapped; public places; public conveyances.** (a) The blind, visually handicapped, and otherwise physically disabled are entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats, or any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

(b) Every blind or visually handicapped person shall have the right to be accompanied by a guide dog, especially trained for the purpose, in any of the places listed in subsection (a) without being required to pay an extra charge for the guide dog; provided that the blind [and] or visually handicapped person shall be liable for any damage done to the premises or facilities by such dog. No such dog shall be dangerous merely because it is unmuzzled.

(c) Every physically handicapped person shall have the right to use a life jacket or other flotation device in a public swimming pool; provided that:

- (1) The handicapped person suffers from a physical disability or condition which requires the use of a life jacket or other flotation device; and
- (2) The handicapped person obtains a statement signed by a licensed physician attesting to the handicapped person's need to use a life jacket or other flotation device.

The director of social services shall adopt rules pursuant to chapter 91 necessary for the purposes of this subsection."

SECTION 2. Section 347-14, Hawaii Revised Statutes, is amended to read as follows:

**"§347-14 Penalty.** Any person who violates section 347-13 and any common carrier or public carrier which, and any officer or employee of any common carrier who violates, or causes such carrier to violate, section 347-13 shall be fined not more than \$1,000 or, if a natural person, imprisoned not more than one year, or both."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 2, 1987.)

## ACT 364

H.B. NO. 1041

A Bill for an Act Relating to Enforcement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 199-3, Hawaii Revised Statutes, is amended to read as follows:

**"§199-3 Conservation and resources enforcement officers, duties[.]; other law enforcement officers.** (a) The conservation and resources enforcement officers, with respect to all state lands, including public lands, state parks, forest reserves, forests, aquatic life and wildlife areas, and any other lands and waters subject to the jurisdiction of the department of land and natural resources, shall:

- (1) Enforce title 12, and chapter 6E, and rules adopted thereunder;
- (2) Investigate complaints, gather evidence, conduct investigations, and conduct field observations and inspections as required or assigned;
- (3) Cooperate with enforcement authorities of the State, counties, and federal government in development of programs and mutual agreements for conservation and resources enforcement activities within the State;
- (4) Cooperate with established search and rescue agencies of the counties and the federal government in developing plans and programs, and mutual aid agreements for search and rescue activities within the State;
- (5) Check and verify all leases, permits, and licenses issued by the department of land and natural resources;
- (6) Enforce the laws relating to firearms, ammunition and dangerous weapons contained in chapter 134;

ACT 364

- (7) Enforce the rules, at the request of the department of transportation, relative to the control and management of the beaches encumbered with easements in favor of the public and ocean waters adopted by the director of transportation under chapter 266 and the rules for the regulation of vessels and their use in the waters of the State adopted by the department of transportation under chapter 267; and
- [(7)] (8) Carry out such other duties and responsibilities as the board of land and natural resources may from time to time direct.
- (b) Every state and county officer charged with the enforcement of laws and ordinances shall enforce and assist in the enforcement of title 12 and chapter 6E and rules adopted thereunder and in the enforcement of chapters 266 and 267 and of all rules adopted thereunder.”

SECTION 2. Section 266-24, Hawaii Revised Statutes, is amended to read as follows:

“§266-24 Enforcement. For the purpose of the enforcement of this chapter and of all rules [and regulations] adopted [and promulgated] pursuant to this chapter[,], and the enforcement of title 12, chapter 6E, and chapter 266 and rules adopted thereunder, and chapter 267 and rules adopted thereunder, the powers of police officers are conferred upon the director of transportation and any officer, employee, or representative of the department of transportation appointed by the director. Without limiting the generality of the foregoing, the director and any person appointed by the director hereunder may serve and execute warrants, arrest offenders, and serve notices and orders. Every state and county officer charged with the enforcement of laws and ordinances shall enforce and assist in the enforcement of this chapter and of all rules [and regulations] adopted [and promulgated] pursuant to this chapter[.] and in the enforcement of title 12, chapter 6E, and chapter 266 and rules adopted thereunder, and chapter 267 and rules adopted thereunder.”

SECTION 3. Section 267-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The director of transportation may enter into a contract with corporations authorized to engage in business in the State to aid in enforcing this chapter and all rules [and regulations] adopted pursuant to this chapter in specified areas; in enforcing title 12, chapter 6E, and chapter 266, and rules adopted thereunder; and in enforcing chapter 267 and rules adopted thereunder; provided that the corporations agree to undertake this activity at no expense to the State and to hold the State harmless in respect to all injuries, losses, or damages arising from, growing out of, or caused by any acts or omissions of the corporations, their officers, agents, or employees in connection with the contract. The director of transportation may appoint no more than ten officers and employees of the corporations to serve as boating enforcement officers to enforce this chapter. The director of transportation, officers, and employees of the department of transportation, boating enforcement officers and volunteer enforcement officers appointed by the director under this section, and every state and county officer charged with the enforcement of state laws shall enforce and assist in the enforcement of this chapter and of all rules adopted pursuant to this chapter.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

## SECTION 5. This Act shall take effect upon its approval.

(Approved July 2, 1987.)

## ACT 365

H.B. NO. 486

A Bill for an Act Relating to Real Estate Transactions.

*Be It Enacted by the Legislature of the State of Hawaii:*SECTION 1. Section 513-3,<sup>1</sup> Hawaii Revised Statutes, is amended to read as follows:

**“§513-3 Discriminatory practices.** It is a discriminatory practice for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesman, because of race, sex, color, religion, marital status, parental status, ancestry, or a physical handicap:

- (1) To refuse to engage in a real estate transaction with a person;
- (2) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (3) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;
- (4) To refuse to negotiate for a real estate transaction with a person;
- (5) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to the person's attention, or to refuse to permit the person to inspect real property;
- (6) To print, circulate, post, or mail, or cause to be so published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto; [or]
- (7) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith; provided that it shall not be a discriminatory practice under this section to exclude a person based on parental status, or to so advertise or otherwise state, from a real estate transaction or housing accommodation developed specifically for the elderly. For the purposes of this [section] paragraph an elderly person is a person who is sixty-two years of age or older. Nothing in this section shall affect covenants, bylaws, or administrative provisions established in accordance with chapter 514A or established under organizational documents and proprietary leases for housing cooperatives, placing restrictions based upon parental status, existing prior to April 19, 1984[.]; or
- (8) To refuse to engage in a real estate transaction with a blind or deaf person because the person uses the services of a certified guide or signal dog; provided that reasonable restrictions or prohibitions may be imposed regarding excessive noise or other problems caused by those animals. For the purposes of this paragraph:

“Blind” shall be as defined in section 235-1;  
“Deaf” shall be as defined in section 235-1;  
“Guide dog” means any dog individually trained by a li-  
censed guide dog trainer for guiding a blind person by means of a  
harness attached to the dog and a rigid handle grasped by the  
person; and  
“Signal dog” means any dog trained to alert a deaf person to  
intruders or sounds.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 2, 1987.)

Note

1. Should be “515-3”

ACT 366

H.B. NO. 121

A Bill for an Act Relating to Jurors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to establish a statewide “one day or one trial” system for jury service. This system and other changes to chapter 612, Hawaii Revised Statutes, made by this Act are intended to implement the comprehensive recommendations concerning the jury system made in a report by the National Center for State Courts which was commissioned by the State Judiciary to study the concerns expressed in House Resolution No. 127, Eleventh Legislature of the State of Hawaii, Regular Session of 1982.

SECTION 2. Chapter 612, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§612- Rules. The supreme court is authorized to adopt, amend, and repeal rules of court, not inconsistent with this chapter, regulating all aspects of the selection and management of grand and trial jurors. The clerk, with the approval of the supreme court, may adopt rules setting forth policies, procedures, and forms for the selection and management of grand and trial jurors in the jury pools, in court rooms, and in other appropriate circumstances in furtherance of the objectives of this chapter.”

SECTION 3. Section 612-6, Hawaii Revised Statutes, is amended to read as follows:

“[§612-6] Exempt when. (a) No person shall be authorized to claim an exemption from service as a juror in the courts of the first circuit from January 1, 1989 through December 31, 1990 and in the courts of all circuits, other than the first circuit from January 1, 1990 through December 31, 1991.

(b) From January 1, 1991, for the courts of the first circuit, and from January 1, 1992, for all other circuits of the State of Hawaii, [A] a person may claim exemption from service as a juror if the person is:

- (1) An attorney at law;
- (2) A head of an executive department, an elected official, or a judge, of the United States, State or county;

- (3) A minister or priest following the minister's or priest's profession;
- (4) A practicing physician or dentist;
- (5) A member of the armed forces or militia when on active service, or an active member of a police or fire department;
- (6) A person who has served as a juror, either in a court of this State or the United States District Court for the District of Hawaii, within one year preceding the time of filling out the juror qualification form."

SECTION 4. Section 612-11, Hawaii Revised Statutes, is amended to read as follows:

"**[§612-11] Master list.** (a) Each year the [jury commission] clerk for each circuit shall compile a master list. The master list shall consist of all voter registration lists for the circuit, which [may] shall be supplemented with names from other lists of persons resident therein such as lists of taxpayers and drivers' licenses. This includes names, addresses, and social security numbers taken from income tax returns and estimates notwithstanding [the provisions of] section 235-116. Each person's name shall appear only once on the master list.

(b) Whoever has custody, possession, or control of any of the lists which are to be used in compiling the master list, shall make the list available to the [jury commission] clerk for inspection, reproduction, and copying at all reasonable times."

SECTION 5. Section 612-12, Hawaii Revised Statutes, is amended to read as follows:

"**[§612-12] Master jury wheel.** Each year the [jury commission] clerk for each circuit [shall], by random selection, shall place in the master jury wheel the names of prospective jurors taken from the master list, in such number as the [jury commission] clerk determines should be processed in order to provide the number of jurors required for the ensuing year. From time to time an additional number may be determined by the [jury commission] clerk or ordered by the court to be placed in the master jury wheel."

SECTION 6. Section 612-13, Hawaii Revised Statutes, is amended to read as follows:

"**[§612-13] Juror qualification form.** (a) The [jury commission] clerk shall prepare an alphabetical list of the names in the master jury wheel, which shall not be disclosed to any person other than pursuant to this chapter or specific order of the court. The [jury commission] clerk shall mail to every name on such list a juror qualification form accompanied by instructions to fill out and return the form by mail to the clerk within ten days after its receipt. The form shall be subject to approval by the court as to matters of form and shall elicit the name, address of resident, age of the prospective juror, other information pertinent to disqualification or exemption from jury service, and such other matters as may be ordered by the court. The form [further] shall also contain the prospective juror's declaration that the prospective juror's responses are true to the best of the prospective juror's knowledge and the prospective juror's acknowledgement that a wilful misrepresentation of a material fact may be punished by a fine of not more than \$500 or imprisonment for not more than thirty days, or both. Notarization of the juror qualification form shall not be required. If the prospective juror is unable to fill out the form, another person may do it for the prospective juror and shall indicate that the person has done so and the

## ACT 366

reason therefor. Upon failure or refusal of any person duly receiving the juror qualification form to complete and return it as required, or in case of an omission, ambiguity, or error in a returned form, the court, after first summoning the person to appear before the clerk to complete or correct the form, may punish the person for contempt.

(b) At the time of the prospective juror's appearance for jury service, or at the time of any interview before the court[, jury commission,] or clerk, any prospective juror may be required or permitted to fill out another juror qualification form in the presence of the court[, jury commission,] or clerk, at which time the prospective juror may be questioned, but only with regard to the prospective juror's responses to questions contained on the form and grounds for the prospective juror's exemption, excuse, or disqualification. Any information thus acquired by the court[, jury commission,] or clerk shall be noted on the juror qualification form.

(c) The jury commission may in its discretion, by circuit court process, summon prospective jurors before it for examination. A person summoned for examination shall receive mileage as provided in section 612-8.

(d) (c) Any person who wilfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror is guilty of a petty misdemeanor."

SECTION 7. Section 612-14, Hawaii Revised Statutes, is amended to read as follows:

"~~[[[§612-14]]]~~ **Qualified jury wheel.** (a) Upon return of the juror qualification form,<sup>1</sup> the [jury commission shall,] clerk, after careful investigation in each case, shall select for jury service all those persons whom [it] the clerk believes are qualified and not exempt; provided that any person who is exempt may be selected if the person waives the person's exemption.

(b) The names of the persons so selected shall be placed in the qualified jury wheel, to be used in compiling lists of jurors subject to service during the ensuing year; provided that the [jury commission may,] clerk, with the approval of the court, may excuse a prospective juror for any cause set forth under section 612-7, in which case the name of [such] the excused person shall not be placed in the qualified jury wheel."

SECTION 8. Section 612-15, Hawaii Revised Statutes, is amended to read as follows:

"~~[[[§612-15]]]~~ **Certified jury lists.** (a) Every year the [jury commission] clerk of each circuit shall make and[, ] file, not later than January 5, [file with the clerk of its circuit court,] one or more certified lists of the names and addresses of fifty citizens, or such greater number as the court may order, subject to serve as grand jurors during the ensuing year from and after January 15. At the same time the [jury commission] clerk of each circuit shall likewise file a separate certified list of the names and addresses of citizens subject to serve as trial jurors during the ensuing year, from and after January 15, the number for each circuit to be such as the [jury commission] clerk considers necessary. The certified lists of grand jurors and trial jurors shall be compiled from names drawn at random from the qualified jury wheel, and shall be prepared in alphabetical sequence. Upon the order of the court, from time to time, additional lists of persons subject to serve as grand jurors shall be compiled and filed, and additional names shall be added to a grand or trial jury list; provided that all such additions shall be made by drawing from the qualified jury wheel for the appropriate year. When more than one grand jury list has been compiled, the sequence in



which the lists are to be used shall be designated by the [jury commission] clerk according to the sequence of drawing. The names on the certified lists shall be open to public inspection, subject to orders of the court.

(b) In the second, third, and fifth circuits any circuit judge, and in the first circuit a majority of the circuit judges, [may] at any time, for reasons appearing sufficient to the judge or them, may order the dissolution of any certified list of grand or trial jurors and order the [jury commission] clerk to make and file a new list, which may include any of the persons so discharged, to serve for the remainder of the year. The new list shall be compiled in the manner prescribed by the court. Until [such] the new list is filed, grand or trial jurors may be drawn from a list thereof compiled and filed by the judge or judges making the order or one or more of them designated by the remainder, which list shall expire [no] not later than thirty days after the filing thereof unless [said] the period is extended, except that any trial jury panel may sit beyond the end of the period [above] prescribed in this subsection and after the filing of a new list by the [jury commission,] clerk, for the trial of any case in which the selection of the jury has already commenced.”

SECTION 9. Section 612-16, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) [Subject to section 612-22,] For the courts of the first circuit of the State of Hawaii from January 1, 1989 to December 31, 1991, and for the courts of all other circuits of the State of Hawaii from January 1, 1990 to December 31, 1992, a grand jury shall serve for a period of [one year] six months after being impaneled[, unless sooner discharged by the court.]; provided that a grand jury may:

- (1) Sit beyond such period to complete any matter in which the grand jury was impaneled;
- (2) Be discharged sooner by the court; and
- (3) Sit in all other cases until another grand jury is impaneled and sworn.

Effective January 2, 1992 for the courts of the first circuit of the State of Hawaii, and effective January 2, 1993 for the courts of all other circuits of the State of Hawaii subject to section 612-22, a grand jury shall serve for a period of one year after being impaneled, unless sooner discharged by the court.

Any vacancy occurring on a grand jury may be filled by the court by drawing at random from names on the certified list of grand jurors.”

SECTION 10. Section 612-17, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) Each panel ordered by a judge shall serve for a period of [thirty days,] one day, commencing from the first day the panel is required to appear for service; provided that any juror may be required to serve beyond the [thirty day] one day period for the trial of any case in which the selection of the jury commenced within that period. Upon completion of service by all members of a panel, [such] the panel shall be returned to the clerk [which], who shall not transmit [such] the panel again to any judge until all other panels have been exhausted and other panels which served at a more remote time have been first transmitted for service.”

SECTION 11. Section 612-18, Hawaii Revised Statutes, is amended to read as follows:

ACT 366

“~~[[§612-18]]~~ Trial jury[, second, third, fifth circuits]. (a) [In the second, third, and fifth circuits, if] ~~If~~ the court so orders, trial jurors shall be drawn, summoned, and further proceedings had as provided in section 612-17.

(b) If no order is made under subsection (a) in a particular circuit, the judge (or judges, if there are more than one) of that circuit may order a system of jury selection from the certified list of trial jurors which is not contrary to the general purposes of this chapter. In no case shall the trial jury panel or panels be chosen other than by lot, nor shall the trial jury be selected from the jury panel or panels other than by lot in open court. In selecting the trial jury there is no requirement that the names on a particular panel be exhausted before those on another panel may be used in the drawing, and the names of jurors on different panels may be mixed with each other for the drawing.

(c) The names of prospective jurors on a trial jury panel which is to be summoned, and the contents of juror qualification forms completed by those jurors, shall be made available to the litigants concerned.

(d) A judge may, having regard to the equitable distribution of jury service, excuse any juror after actual service in a trial.]”

SECTION 12. Section 612-20, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§612-20]]~~ Requests for exemption or excuse. If a person who is exempt or who believes oneself to be entitled to be excused from jury duty, is summoned as a juror, [the person may,] even though the person did not request exemption or excuse previously, or was not exempted or excused by the [jury commission,] clerk, the person may make the person’s request for exemption or excuse to the judge of the court for which the person is summoned. The request may be made to the clerk or bailiff, who shall deliver it to the judge and, if sufficient in substance, it shall be received as an excuse for nonattendance in person.”

SECTION 13. Section 612-22, Hawaii Revised Statutes, is amended to read as follows:

“~~§612-22~~ [Jurors serve] Trial jurors subject to<sup>1</sup> one year[.] of service; one day or one trial requirement.<sup>1</sup> The persons whose names are placed on the certified lists filed by the [jury commission] clerk shall be subject to service for one year from and after January 15 and until the filing of new certified lists; provided that trial jurors [may sit beyond the end of the period above prescribed, (1) in the case of a trial jury for the trial of any case in which the selection of the jury commenced within said period, and (2) in the case of a grand jury for the completion of any matter in which such grand jury was impaneled within the said period; in all other cases until another grand jury is impaneled and sworn.] shall serve only one day or one trial during the year. Prospective jurors who are challenged at voir dire and excused, excused for cause, summoned but not called to a courtroom, or called to a courtroom but later excused shall be dismissed from service for the year. Jurors who are accepted to serve on a jury shall complete the duration of the trial and shall be dismissed from service for the year.”

SECTION 14. Section 612-23, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) Upon motion filed under subsection (a) containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with this chapter, the moving party is entitled to present in support of the motion the testimony of [a jury commissioner or] the clerk, any relevant records and papers not public or otherwise available used by the [jury commission or the] clerk, and any other relevant evidence. If the court determines that in selecting either a grand jury or a trial jury there has been a substantial failure to comply with this chapter and that the moving party has been prejudiced thereby, the court shall stay the proceedings pending the selection of the jury in conformity with this chapter, quash an indictment, or grant other appropriate relief.”

2. By amending subsection (d) to read:

“(d) The contents of any records or papers used by [the jury commission or] the clerk in connection with the selection process shall not be disclosed, except as provided by other provisions of this chapter, [or] in connection with the preparation or presentation of a motion under subsection (a), or upon order of the court. The parties in a case may inspect, reproduce, and copy the records or papers at all reasonable times during the preparation and pendency of a motion under subsection (a).”

SECTION 15. Section 612-24, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§612-24~~]]~~ **Preservation of records.** All records and papers compiled and maintained by [the jury commission or] the clerk in connection with the selection and service of jurors shall be preserved by the clerk for four years after the termination of the prescribed period of service and for any longer period ordered by the court.”

SECTION 16. Section 612-10, Hawaii Revised Statutes, is repealed.

SECTION 17. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1987-1988, to carry out the purposes of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the judiciary.

SECTION 18. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 19. Section 1 of this Act shall take effect upon its approval. Sections 2 to 16 shall take effect on January 1, 1989 for the courts of the first circuit of the State of Hawaii, and on July 1, 1990 for the courts of all other circuits of the State.

(Approved July 2, 1987.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

**ACT 367**

S.B. NO. 242

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

## ACT 367

SECTION 1. Section 171-58, Hawaii Revised Statutes, is amended to read as follows:

**“§171-58 Minerals and water rights. (a)** Except as provided herein, the right to any mineral or surface or ground water shall not be included in any lease, agreement, or sale, [such] this right being reserved to the State; provided that the board [of land and natural resources] may make provisions in [such] the lease, agreement, or sale, for the payment of just compensation to the surface owner for improvements taken as a condition precedent to the exercise by the State of any reserved rights to enter, sever, and remove minerals or to capture, divert, or impound water.

**(b)** Disposition of mineral rights shall be in accordance with the laws relating [thereto] to the disposition of mineral rights enacted or hereafter enacted by the legislature.

**(c)** Disposition of water rights may be made by lease at public auction as provided in this chapter or by permit for temporary use on a month-to-month basis under such conditions which will best serve the interests of the State and subject to a maximum term of one year and other restrictions under the law; provided that any disposition by lease shall be subject to disapproval by the legislature or by two-thirds vote of either the senate or the house of representatives or by majority vote of both, in any regular or special session next following the dates of such disposition[.]; provided further that after a certain land or water use has been authorized by the board subsequent to public hearings and conservation district use application and environmental impact statement approvals, water used in non-polluting ways, for non-consumptive purposes because it is returned to the same stream or other body of water from which it was drawn, essentially not affecting the volume and quality of water or biota in the stream or other body of water, also may be leased by the board with the prior approval of the governor and the prior authorization of the legislature by concurrent resolution.

**(d)** Any lease of water rights shall contain a covenant on the part of the lessee that the lessee shall provide from waters leased from the State under the lease or from any water sources privately owned by the lessee to any farmer or rancher engaged in irrigated pasture operations, crop farming, pen feeding operations, or raising of grain and forage crops, or for such public uses and purposes as may be determined by the board, at the same rental price paid under the lease, plus the proportionate actual costs, as determined by the board, to make such waters available, so much of the waters as are determined by the board to be surplus to the lessee's needs and for such minimum period as the board shall accordingly determine; provided that in lieu of payment for such waters as the State may take for public uses and purposes the board may elect to reduce the rental price under the lease of water rights in proportion to the value of the waters and the proportionate actual costs of making the waters available. Subject to the applicable provisions of section 171-37(3), the board [may], at any time during the term of the lease of water rights, may withdraw from waters leased from the State and from sources privately owned by the lessee so much water as it may deem necessary to (1) preserve human life and (2) preserve animal life, in that order of priority; and that from waters leased from the State the board [may], at any time during the term of the lease of water rights, may also withdraw so much water as it may deem necessary to preserve crops; provided that payment for the waters shall be made in the same manner as provided herein.”

SECTION 2. Section 171-53, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The board, with the prior approval of the governor and the prior authorization of the legislature by concurrent resolution, may lease submerged lands[,] and lands beneath tidal waters [which it deems suitable for reclamation,] under the terms, conditions, and restrictions provided in this chapter[.]; provided that the approval of the governor and authorization of the legislature shall not be required for any grant of easement or lease of submerged lands or lands beneath tidal waters used for moorings, cables, or pipelines; provided further that this exemption shall not apply to easements for cables used for interisland electrical transmission or slurry pipelines used for transportive materials, mined at sea, or waste products from the processing of the same.

The lease shall provide that the lands shall be reclaimed at the expense of the lessee. Title to the reclaimed lands shall remain in the State.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon approval provided that Section 1 be retroactive to July 1, 1986.

(Approved July 3, 1987.)

## ACT 368

S.B. NO. 471

A Bill for an Act Relating to State-Owned Cemeteries and Making Appropriations Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purpose.** The State of Hawaii owns four public cemeteries, all on Oahu: Aiea cemetery, Makiki cemetery, a portion of Puea cemetery, and Puukamalii cemetery.

During the Hawaiian monarchy, the minister of the interior was responsible for the public cemeteries. Following annexation by the United States, the Organic Act of the Territory of Hawaii assigned the responsibility to the department of public works, to be carried out in conformance with the authority of the board of health to make regulations for the interment of the dead, and respecting cemeteries and burying grounds, or to protect the public health.

The Hawaii State Government Reorganization Act of 1959, (Act 1, Second Special Session, 1959), abolished the department of public works and transferred its “nonhighway functions” to the department of accounting and general services.

While it is clear that the department of accounting and general services is responsible for the four state-owned cemeteries, no legislation has been enacted to provide the department with the powers necessary to carry out the function properly. There has been no appropriation made to enable the department to provide an adequate level of management and maintenance for the cemeteries.

The purpose of this Act is to provide the comptroller with the powers to manage and maintain the cemeteries, to improve or redevelop the cemeteries, to reduce the size and number of cemeteries, and to take such other actions as may be deemed necessary for their care, improvement, or disposal; and to appropriate funds to carry out the responsibility for the cemeteries.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
STATE-OWNED CEMETERIES**

**§ -1 Responsibility for state-owned cemeteries.** The comptroller shall be responsible for the operation, maintenance, improvement, redevelopment, and disposal of state-owned cemeteries; for the determination of ownership of plots therein; and for the proper maintenance of records pertaining to the cemeteries, including cemetery plot plans, and records of plot ownership, interments, and disinterments.

**§ -2 Powers and duties of the comptroller.** In carrying out the responsibility assigned by this chapter, the comptroller may:

- (1) Adopt rules pursuant to chapter 91 to establish policies and rules governing the use of state-owned cemeteries, including, but not limited to, establishment of fees and charges, recordkeeping, entitlement to and procedures for interments and disinterments, the maintenance of order and security, placement and relocation of graves and grave markers, and kinds of markers that may be allowed;
- (2) Determine, on the basis of evidence provided by claimants, ownership of or interest in cemetery plots and entitlement to interment and disinterment;
- (3) Enter into agreements with churches, cemetery associations, and other not-for-profit organizations for the use of property within any state-owned cemetery; provided that the agreements shall specify the responsibilities of the organization for maintenance, care, and security of property, fees that may be charged members of the organization, the maintenance of such records as the comptroller may deem necessary, and such other requirements as the comptroller may impose;
- (4) Redevelop cemeteries for other public purposes, and take such action as may be deemed necessary to reduce the number of state-owned cemeteries or to reduce the size of existing state-owned cemeteries;
- (5) Contract for services necessary for the maintenance, improvement, redevelopment, or disposal of cemeteries; for the disinterment and relocation of remains; and for any other services as may be deemed necessary by the comptroller;
- (6) Delegate to one or more subordinates authority to manage and maintain state-owned cemeteries;
- (7) Hire temporary personnel exempt from chapters 76 and 77 to carry out management or maintenance functions; and
- (8) Take such actions as the comptroller may deem necessary.

**§ -3 Removal of remains; public hearing and other requirements.** The comptroller may disinter and relocate remains in any state-owned cemetery or between state-owned cemeteries to improve, redevelop, or reduce the size of any state-owned cemetery, or to facilitate the subsequent disposition of any state-owned cemetery; provided that:

- (1) Before disinterring any remains, the comptroller shall hold at least one public hearing to afford the public an opportunity to review the plans to improve, redevelop, reduce the size of, or

dispose of the cemetery and to submit comments and views on the proposed project; and,

- (2) The comptroller shall notify in writing the known relative of a deceased person whose remains are to be disinterred and relocated of the public hearing required by paragraph (1); if the relatives of the deceased are unknown the comptroller shall publish at least one notice of the public hearing in a newspaper of general circulation in the State.

§ -4 **Disposition of real property.** Any state-owned cemetery, or any part thereof, which is cleared of the remains of deceased persons and is no longer needed as a cemetery shall be offered to the county in which the cemetery is located for use as a public park. If the county does not accept the vacated property for use as a public park, the property shall be transferred to the control of the department of land and natural resources for disposition in accordance with applicable law.”

SECTION 3. **Appropriations.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$113,100, or so much thereof as may be necessary for fiscal year 1987-1988, and the sum of \$760,200, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this Act. Each sum appropriated shall lapse if not expended or encumbered by the last day of each respective fiscal year. The sums appropriated shall be expended by the department of accounting and general services.

SECTION 4. **Effective date.** This Act shall take effect upon its approval, except for Section 3, which shall take effect on July 1, 1987.

(Approved July 3, 1987.)

## ACT 369

S.B. NO. 769

A Bill for an Act Relating to Campaign Spending.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended as follows:

1. Section 11-191 is amended by amending the following definitions to read as follows:

“(1) “Advertisement” means:

- (A) Any communication, exclusive of bumper stickers or other sundry items [paid for by or on behalf of a candidate,] which identifies a candidate directly or by implication or which advocates or supports the nomination for election, or election, of the candidate or advocates or supports the candidate’s defeat; and
- (B) Any communication, exclusive of bumper stickers or other sundry items [paid for by or on behalf of a committee,] which identifies an issue or question which appears or is reasonably certain to appear on the ballot at the next applicable election, or which advocates or supports the passage or defeat of the question or issue.

- (3) "Candidate" means an individual who seeks nomination for election, or election, to office. An individual is a candidate if the individual does any of the following:
- (A) Files nomination papers for an office for oneself with the county clerk's office or with the chief election officer's office whichever is applicable; or
  - (B) Receives contributions in an aggregate amount of more than \$100, or makes or incurs any expenditures of more than \$100 to bring about the individual's nomination for election, or election, to office; provided that in no event shall a person be deemed a candidate by reason of the provisions set forth in this subparagraph and subparagraph (C) until January 1 of the year that person runs for election; [or]
  - (C) Gives the individual's consent for any other person to receive contributions or make expenditures to aid the individual's nomination for election, or election, to office[.]; or
  - (D) Is certified to be a candidate by the lieutenant governor or county clerk.<sup>1</sup>
- (6) "Committee" means:
- (A) Any organization or association which, or any individual who, accepts a contribution or makes an expenditure for or against any candidate[,], or individual who files for nomination at a later date and becomes a candidate, or party, with or without the authorization of the candidate, individual, or party, or who accepts a contribution or makes an expenditure for or against any question or issue which appears [or is reasonably certain to appear] on the ballot at the next applicable election;
  - (B) Any organization or association which, or any individual who, raises or holds money or anything of value for a political purpose, with or without the consent or knowledge of any candidate[,], or individual who files for nomination at a later date and becomes a candidate, or any party, and which subsequently contributes the money or anything of value to, or makes expenditures [in] on behalf of, a candidate[,], or individual who files for nomination at a later date and becomes a candidate, or party;
  - (C) Notwithstanding any of the foregoing, the term "committee" shall not include any individual making a contribution or expenditure of the individual's own funds or anything of value which the individual originally acquired for the individual's own use and not for the purpose of evading any provision of this subpart;
  - (D) Any committee as defined in subparagraph (A), which makes contributions or expenditures in aggregate of more than \$1,000 per election to influence the nomination and election of individuals to public office or the outcome of ballot questions or issues, shall register with the campaign spending commission and file reports as required by this chapter[.];
  - (E) Any committee as defined in subparagraph (A), whose sole activity consists of direct contributions in aggregate of more than \$1,000 per election to influence the nomination



and election of individuals to public office or the outcome of ballot questions or issues, shall submit a statement of contributions to the campaign spending commission in lieu of filing reports as required by this chapter.

(7) "Contribution" means:

- (A) A gift, subscription, deposit of money or anything of value, or cancellation of a debt or legal obligation and includes the purchase of tickets to fundraisers for the purpose of:
  - (i) Influencing the nomination for election, or election, of any person to office; or
  - (ii) Influencing the outcome of any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election; or
  - (iii) Use by any party for the purposes set out in clause (i) or (ii);] above;
- (B) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee without charge or at an unreasonably low charge for the purposes set out in clause (i), (ii), or (iii) in subparagraph (A);] above; or
- (C) A contract, promise, or agreement to make a contribution; provided that notwithstanding this subparagraph and subparagraphs (A) and (B), the term shall not include services or portions thereof voluntarily provided without reasonable compensation by individuals to or in behalf of a candidate or committee; or
- (D) Notwithstanding subparagraphs (A), (B), and (C), a candidate's expenditure of the candidate's own funds or the making of a loan or advance in the pursuit of the candidate's campaign shall not be a contribution for the purpose of this subpart but shall nevertheless be reportable as a campaign receipt.

(14) "Loan" means an advance of money, goods, or services, or a guarantee, endorsement, or any other form of security, with an absolute promise to repay.

[(14)] (15) "Matching payment period" means:

- (A) For a primary election, from January 1 of the year of a general election through the day of the primary election, or nine months prior to a special primary or special election through the day of a special primary or special election; and
- (B) For a general election, from the day after a primary or special primary election through the day of the general or special general election.

[(15)] (16) "Newspaper" means a publication of general distribution in the State issued once or more per month which is written and published in the State.

[(16)] (17) "Office" means any elective public or constitutional office excluding federal elective offices.

[(17)] (18) "Person" means an individual, partnership, committee, association, corporation, or labor union and its auxiliary committees.

[(18)] (19) "Political party" means any party which satisfies the requirements of section 11-61.

ACT 369

- [(19)] (20) "Private contribution" means a monetary contribution other than from a candidate's own funds or from the Hawaii election campaign fund.
- [(20)] (21) "Qualifying campaign contribution" means a monetary contribution of \$100 or less, and not more than \$100 of a person's total aggregate monetary contribution. Qualifying contributions do not include loans or in-kind contributions."

2. Section 11-194 is amended to read as follows:

**"§11-194 Registration.** (a) Each candidate, committee, or party shall file an organizational report as set forth in section 11-196, [no later than 4:30 p.m. on or before the day of filing for nomination or election; provided that any committee organized after the last day for filing for nomination or election shall file an organizational report] within ten days from the date the committee receives any contribution, the aggregate amount of which is more than \$100[.] or makes any expenditure.

(b) Committees that form within ten days of an election and expend in the aggregate more than \$1,000 shall register and fully disclose such expenditure by 4:30 p.m. the last calendar day prior to the expenditure.

(c) Each candidate who is certified to be a candidate by the lieutenant governor or county clerk by way of the "write-in" ballot shall file an organizational report within five days of being certified as a candidate."

3. Section 11-196 is amended by amending subsection (a) to read as follows:

"(a) The organizational report shall include:

- (1) The name and address of the candidate or individual, committee, or party filing the report;
- (2) The name, address, office sought, district, and party affiliation, of each candidate or individual whom the committee or party is supporting;
- (3) The names and addresses of the campaign treasurer and deputies;
- (4) The names and addresses of the campaign chairman and deputy campaign chairman;
- (5) A list of all banks, safety deposit boxes, or other depositories used with each applicable account number;
- (6) The amount, name, and address[, and occupation] of each donor who has contributed an aggregate amount of more than \$100 since the last election applicable to the office being sought or to the ballot issue or question and the amount and date of deposit of each such contribution; and
- (7) In the case of a report by a committee or party supporting or opposing a ballot question or issue, all of the information described in paragraphs (2) to (6) and a description of the question or issue."

4. Section 11-199 is amended by amending subsection (c) to read as follows:

"(c) Each candidate and campaign treasurer shall report the amount and date of deposit of each contribution and the name[, and] and address[, and occupation] of each donor who makes a contribution whose aggregate value is more than \$100."

5. Section 11-200 is amended to read as follows:

**“§11-200 Campaign contributions; restrictions against transfer.** (a) A candidate, campaign treasurer, or candidate’s committee shall not receive any contributions or receive or make any transfer of money or anything of value:

- (1) For any purpose other than that directly related:
  - (A) In the case of the candidate, to the candidate’s own campaign; or
  - (B) In the case of a campaign treasurer or candidate’s committee, to the campaign of the candidate, question, or issue with which they are directly associated; or
- (2) To support the campaigns of candidates other than the candidate,<sup>1</sup> for whom the funds were collected or with whom the campaign treasurer or candidate’s committee is directly associated; or
- (3) To campaign against any other candidate not directly opposing the candidate for whom the funds were collected or with whom the campaign treasurer or candidate’s committee is directly associated.

Any provision of law to the contrary notwithstanding, a candidate, campaign treasurer, or candidate’s committee, as a contribution, may purchase from its campaign fund not more than two tickets for each fundraiser as defined in section 11-203, held by another candidate, committee, or party.

(b) This section shall not be construed to prohibit a party from supporting more than one candidate.

(c) This section shall not be construed to prohibit a candidate for the office of governor or lieutenant governor from supporting a co-candidate in the general election.

(d) This section shall not be construed to prohibit a candidate from making contributions to the candidate’s party so long as that contribution is not earmarked for another candidate.”

6. Section 11-203 is amended to read as follows:

**“§11-203 Fundraisers and fundraising activities.** (a) As used in this subpart, “fundraiser” means any function held for the benefit of a person which is designed to raise funds for political purposes for which the total price of attending the function is more than \$25 per person.

(b) There shall be no more than one fundraiser held for a person prior to a general or special election in which that person is either elected or defeated. [Where a person seeks election to statewide office, he or his directly associated committee may hold not more than one fundraiser in each county prior to a general or special election.]

Within six months after a general, special general, or special election, however, a candidate or committee directly associated with a candidate who has a deficit may hold an additional fundraiser.

(c) No fundraiser shall be held unless a notice of intent to hold the function is filed by the person in charge of the function with the commission prior to the date of the function setting forth the name and address of the person in charge, the price per person, the date, hour, and place of the affair<sup>1</sup> and the method thereof.

(d) Fundraisers sponsored by a candidate for a statewide office are exempt from the \$25 limit of subsection (a) and the restrictions of subsection (b), and fundraisers sponsored by a party for a political purpose for the general benefit of the party are exempt from the restrictions of subsection (b).<sup>1</sup>

## ACT 369

(e) The following expenses incident to a fundraiser and to all other political fundraising activities held for the benefit of a [person] candidate for which there is a charge for attending or participating in the fundraiser or fundraising activity<sup>1</sup> shall not be considered expenditures within the limitations set by section 11-209:

- (1) The cost of food and beverages consumed at the function;
- (2) Rent and utilities for the premises where the function is held;
- (3) The amount paid for guest speakers and entertainment;
- (4) Printing and postage related to a function; and
- (5) All other direct costs incurred in solicitation of the fundraiser or fundraising activity."

7. Section 11-204 is amended to read as follows:

**"§11-204 Campaign contributions; limits as to persons.** (a) No person or any other entity [other than a political party] shall make contributions to a candidate or committee in an aggregate amount greater than \$2,000 in any primary, special primary, special, or general election[.] in which the candidate or party participates.

(b) A candidate or the candidate's immediate family in making a contribution to the candidate's campaign shall be exempt from the above limitation, but shall be limited in the aggregate to \$50,000 in any election year.

(c) A contribution by a dependent minor shall be reported in the name of the minor but shall be counted against the contribution of the minor's parent or guardian.

(d) Any candidate or committee who knowingly receives in the aggregate more than \$2,000 in any primary, special primary, special, or general election from a person, shall be required to return any excess over \$2,000 to such person. If the contributor cannot be found, the excess over the contribution limit shall be deposited with the Hawaii election campaign fund. A candidate or committee who complies with the provisions of this subsection prior to the initiation of prosecution shall not be subject to any penalty under section 11-228.

(e) All payments made by a person or political action committee whose contributions or expenditure activity is financed, maintained or controlled by any corporation, labor organization, association, political party or any other person or committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons shall be considered to be made by a single person or committee.

(f) A contribution made by two or more corporations shall be treated as one person when such corporations:

- (1) Share the majority of members of their boards of directors;
- (2) Share two or more corporate officers;
- (3) Are owned or controlled by the same majority shareholder or shareholders; or
- (4) Are in a parent-subsidiary relationship.

(g) An individual and any general partnership in which the individual is a partner, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

(h) No committee which supports or opposes a candidate for public office shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee shall act in concert with, or solicit or make contributions on behalf of, any other committee."

8. Section 11-206 is amended to read as follows:

**“§11-206 Campaign contributions; restrictions as to excess.** (a) Every candidate in a primary, special primary, special, or general election who has voluntarily agreed to abide by spending limits and who subsequently receives campaign contributions in excess of the expenditure limit set for the candidate’s respective office shall reserve use of such contributions until after a general or special election.

(b) Campaign contributions [received in excess of the candidate’s expenditure limit] shall not be used for personal expenses or to qualify for public funding in any subsequent election, and shall not be transferred to another candidate as prohibited in section 11-200.

Where such contributions are used for the purchase or lease of consumer goods, vehicles, equipment, and services that provide a mixed benefit to the candidate, they shall be reported to the commission pursuant to sections 11-212 and 11-213.

(c) Such contributions may be used after a general or special election for any fundraising activity, for any other politically related activity sponsored by the candidate, for any ordinary and necessary expenses incurred in connection with the candidate’s duties as a holder of an elected state or county office, or for any contribution to any community service, educational, youth, recreational, charitable, scientific, or literary organization, or any other organization which the commission, by rules adopted pursuant to chapter 91, deems appropriate.

(d) All contributions collected pursuant to this section shall be reportable under section 11-213.”

9. Section 11-209 is amended to read as follows:

**“§11-209 Campaign expenditures; limits as to amounts.** (a) From January 1 of the year of a primary, special primary, special, or general election through the day of the special or general election, the total expenditures for candidates who voluntarily agree to limit their campaign expenditures, inclusive of all expenditures made or authorized by the candidate alone and all campaign treasurers and committees in the candidate’s behalf, shall not exceed the following amounts expressed respectively multiplied by the number of voters in the last preceding general election registered to vote [for] in each respective [class of offices] voting districts:

- (1) For the office of governor—\$1.25;
- (2) For the office of lieutenant governor—70 cents;
- (3) For the office of mayor—\$1;
- (4) For the offices of state senator, state representative, county council member, and prosecuting attorney—70 cents; and
- (5) For the offices of the board of education and all other offices—10 cents.

(b) An additional ten per cent increase shall be added to the base amounts allowable under subsection (a) and compounded annually starting in 1979 and each year thereafter.

(c) A candidate or committee who exceeds the expenditure limitations set for any respective office shall notify all opponents and the commission by telephone and in writing the day the expenditure limits are exceeded.”

10. Section 11-212 is amended by amending subsection (b) to read as follows:

“(b) Notwithstanding this section, a candidate, party, or committee whose aggregate contributions or expenditures for the reporting period total \$500 or less may file a short form report with the commission or appropriate county clerk’s office in lieu of the reports required by this section and section 11-213.”

11. Section 11-213 is amended to read as follows:

“§11-213 **Final and supplemental reports.** (a) Primary and special primary. Each candidate whether or not successful in a primary or special<sup>1</sup> election, authorized person in the case of a party, or campaign treasurer in the case of a committee, shall file a final primary report certified pursuant to section 11-195 with the commission on forms provided by the commission no later than 4:30 p.m. on the twentieth calendar day after a primary or special primary election. The report shall include:

- (1) A statement of the total contributions and campaign receipts received;
- (2) The amount and date of deposit of each contribution and the name and address of each donor who contributes an aggregate of more than \$100;
- (3) A statement of all expenditures made, incurred, or authorized by or for a candidate including the name and address of each payee and the amount, date, and purpose of each expenditure; and
- (4) The cash balance and a statement of surplus or deficit.

(b) General, special general, or special election. Each candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall file a final general report with the commission on forms provided by the commission no later than 4:30 p.m. on the thirtieth calendar day after a general, special general, or special election. The final general report shall be certified pursuant to section 11-195 and shall report all items prescribed in subsection (a). A candidate who is unsuccessful in a primary or special primary election need not file a final general report.

(c) Deficit. In the event of a deficit [over \$250,] the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall, every six months until the deficit is eliminated, file supplemental reports covering all items prescribed in subsection (a). The first report shall be due no later than 4:30 p.m. on the thirtieth day after the last day of the election year.

(d) Surplus. In the event of a surplus [over \$250,] the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee, shall:

- (1) Maintain the cash surplus in a financial depository; and
- (2) Every six months, until the candidate becomes a candidate again, or in the case of a party or committee until they participate in an election again, file supplemental reports detailing all items prescribed in subsection (a).

The first report shall be due not later than 4:30 p.m. on the thirtieth calendar day after the last day of the election year.

(e) Short form reporting. A candidate, party, or committee who receives no contributions, makes no expenditures, or has a deficit or surplus of \$250 or less in any prescribed reporting period shall nevertheless be required to file preliminary, final, and supplemental reports on the respective dates pursuant to this subpart. Such reports may be filed on a short form as provided by the commission.

(f) Supplemental reporting. All supplemental reports required by this section are to be filed until a candidate, party, or committee:

- (1) Re-registers with the commission for a new election period; or
- (2) Terminates registration with the commission."

12. Section 11-215 is amended by amending subsection (b) to read as follows:

"(b) In addition to subsection (a) above, no person shall cause or submit any advertisement in support of a candidate or against a candidate's opponent, to be published, broadcast, televised, or otherwise circulated and distributed except under the following conditions:

- (1) The advertisement shall contain a notice in a prominent location that the literature or advertisement is published, broadcast, televised, or circulated with the approval and authority of the candidate, provided that in the event that the literature or advertisement is paid for by a candidate or committee directly associated with a candidate, the notice of approval and authority need not be included; or
- (2) The advertisement shall contain a notice in a prominent location that the literature or advertisement is published, broadcast, televised, or circulated without the approval and authority of the candidate.
- (3) The penalty for violating this section shall be no less than \$25 for each day the advertisement lacks the required disclaimer and no more than \$2,000 aggregate."

13. Section 11-216 is amended by amending subsections (c) and (f) to read as follows:

"(c) Upon hearing the response of the person cited, if the person elects to respond to the complaint, and upon completion of any investigation, the commission shall make a prompt determination as to whether probable cause exists that a violation has been committed.

- (1) Any person who appears before the commission shall have all of the rights, privileges, and responsibilities of a witness appearing before the courts of this State. All witnesses summoned before the commission,<sup>1</sup> shall receive reimbursements<sup>1</sup> as paid in like circumstances in the courts of this State. Any person whose name is mentioned during a proceeding of the commission and who may be adversely affected thereby, may appear personally before the commission on the person's own behalf or file a written statement for incorporation into the record of the proceeding.
- (2) The commission shall conduct a public hearing and cause a record to be made of all proceedings pursuant to this subsection. At the conclusion of proceedings concerning an alleged violation, the commission shall immediately begin deliberations on the evidence and then proceed to determine by majority vote of the members whether probable cause exists that a violation has been committed.

(d)<sup>1</sup> In the event a determination is made that probable cause of a wilful violation exists, the commission shall promptly advise the lieutenant governor of its findings<sup>1</sup> and also the applicable clerk of the state legislature in the case of a state office, or the clerk of the respective county legislative body in the case of a county office. In the event a determination is made that probable cause of an unintentional violation exists, the commission shall issue [a confidential] an order that may require the violator to:

- (1) Temporarily cease and desist violation of this subpart; or

ACT 369

- (2) File any report, statement, or other information as required by this subpart.”

14. Section 11-219 is amended to read as follows:

“**§11-219 Qualifying campaign contributions; amounts.** As a condition of receiving public funds for a primary, special primary, or general election, a candidate shall have filed an affidavit with the commission pursuant to section 11-208 to voluntarily limit the candidate’s campaign expenditures and shall be in receipt of the following sum of qualifying campaign contributions for the candidate’s respective office:

- (1) For the office of governor—qualifying contributions which in the aggregate exceed \$25,000;
- (2) For the office of lieutenant governor—qualifying contributions which in the aggregate exceed \$20,000;
- (3) For the office of mayor in a county having more than 100,000 registered voters—qualifying contributions which in the aggregate exceed \$15,000;
- (4) For the office of mayor in a county having less than 100,000 registered voters—qualifying contributions which in the aggregate exceed [~~\$2,000;~~] \$5,000; and
- (5) For all other offices—qualifying contributions which in the aggregate exceed \$500.”

15. Section 11-220 is amended by amending subsection (c) to read as follows:

“(c) Each candidate and all committees authorized by such candidate in receipt of qualifying campaign contributions which may be taken into account for purposes of public funding shall maintain, on a form prescribed by the commission, records which show the date and amount of each such contribution and the full name[,] and mailing address[, and occupation] of the person making the contribution. The candidate and all committees authorized by the candidate shall transmit to the commission all reports with respect to such contributions which the commission may require.”

16. Section 11-222 is amended by amending subsection (b) to read as follows:

“(b) Each candidate in receipt of the qualifying sum of contributions established for the candidate’s office may apply to the commission for public funding after the candidate has become a candidate in a primary, special primary, special, or general election[, but no later than ten days prior to a primary, special primary, or general election].”

17. Section 11-223 is amended to read as follows:

“**§11-223 Candidate funding; restrictions.** (a) Each candidate who accepts public campaign funds under this subpart shall be required to abide by the campaign spending limits for the candidate’s respective office as set forth in section 11-209. Any candidate who exceeds the spending limits for the candidate’s respective office as set forth in section 11-209 shall return all of the public campaign funds the candidate has received to the Hawaii election campaign fund.

(b) Public campaign funds provided under this subpart shall only be used to

- (1) Defray campaign expenses incurred by and paid for an eligible candidate or all committees authorized by such candidate; and



(2) Repay loans, the proceeds of which were used to defray campaign expenses.

(c) No candidate or committee authorized by a candidate shall be entitled to receive any public funds under [subsection (a)] this subpart unless the candidate and at least one other candidate for the same elective seat have qualified to have their names on the election ballot in the same election.

[(d)] In no event shall any portion of the total sum of public campaign funds allowable for primary or special primary election expenditures be shifted to the total amount allowable for general election expenditures pursuant to section 11-221.

(e) [(d)] In no event shall any candidate or campaign treasurer in receipt of public campaign funds transfer any portion of such funds to another candidate for any primary, special primary, special, or general election campaign.

[(f)] [(e)] All public funds received under this subpart shall be deposited in a financial institution designated to do business in the State. No expenditures of any public funds received under this subpart shall be made except by checks drawn on such checking account. The commission may require such reports relating to the expenditure of such funds as it considers appropriate.

[(g)] [(f)] Upon the filing of a final report for any primary, special primary, special, or general election, each candidate who has spent an amount below the expenditure limit set for the candidate's respective office, but who has received the maximum amount of public funds allowable for the candidate's respective office, shall return all unexpended public funds to the Hawaii election campaign fund."

18. Section 11-224 is amended to read as follows:

"**§11-224 Public funds; report required; return of funds.** The campaign treasurer of the candidate shall produce evidence to the commission no later than twenty days after a primary [election,] or special primary[,] election; and no later than thirty days after a special or general election that all public funds paid to the candidate have been utilized as required by this subpart.

Should the commission determine that any part of the public funds have been used for noncampaign or improper expenses, it shall report such finding to the attorney general and shall order the candidate to return all or part of the total funds paid to that candidate for a primary, special primary, special, or general election. When such funds are returned, they shall be deposited in the Hawaii election campaign fund."

19. Section 11-227 is amended by amending subsection (a) to read as follows:

"(a) Forty-five days before each primary, special primary, special, or general election, and at such other times as may be appropriate, the commission may publish public notices in the newspaper as well as other media to communicate to the public the following:

- (1) A candidate's failure to sign an affidavit pursuant to section 11-208 to abide by the expenditure limits for the candidate's respective office as imposed by this subpart;
- (2) A candidate who has filed an affidavit to abide by spending limits, but who has exceeded the expenditure limits pursuant to section 11-209;
- (3) A candidate who has failed to file a report required under this subpart, or who has failed to correct a deficient report after notice of such deficiency or failure to file has been mailed to the candidate pursuant to section 11-193(b)(1); and

ACT 370

(4) Any flagrant violation of any other provision of this subpart.”

SECTION 2. **Severability.** If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the provision to other persons and circumstances shall not be affected thereby and further, the invalidity shall not affect other provisions or applications or the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 3, 1987.)

Note

- 1. So in original.

ACT 370

S.B. NO. 830

A Bill for an Act Relating to Discrimination in Real Property.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 515-3, Hawaii Revised Statutes, is amended to read as follows:

**“§515-3 Discriminatory practices.** It is a discriminatory practice for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesman, because of race, sex, color, religion, marital status, parental status, ancestry, [or a] physical handicap[:], or HIV (human immunodeficiency virus) infection:

- (1) To refuse to engage in a real estate transaction with a person;
- (2) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (3) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;
- (4) To refuse to negotiate for a real estate transaction with a person;
- (5) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to the person’s attention, or to refuse to permit the person to inspect real property;
- (6) To print, circulate, post, or mail, or cause to be so published a statement, advertisement, or sign, or<sup>1</sup> use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto; [or]
- (7) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith; provided that it shall not be a discriminatory practice under this section to exclude a person based on parental status, or to so advertise or otherwise state, from a real estate transaction or housing accommodation

developed specifically for the elderly. For the purposes of this section an elderly person is a person who is sixty-two years of age or older. Nothing in this section shall affect covenants, bylaws, or administrative provisions established in accordance with chapter 514A or established under organizational documents and proprietary leases for housing cooperatives, placing restrictions based upon parental status, existing prior to April 19, 1984[.]; or

- (8) To solicit or require as a condition of engaging in a real estate transaction that the buyer, renter, or lessee be tested for human immunodeficiency virus infection (HIV), the causative agent of acquired immunodeficiency syndrome (AIDS)."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 3, 1987.)

Note

1. Prior to amendment, "to" appeared here.

ACT 371

S.B. NO. 1083

A Bill for an Act Relating to Civil Service Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-77, Hawaii Revised Statutes, is amended to read as follows:

**"§76-77 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the public service of each county, now existing or hereafter established, and embraces all personal services performed for each county, except the following:

- (1) Positions in the office of the mayor, but the positions shall be included in the position classification plan;
- (2) Positions of officers elected by public vote; positions of heads of departments and positions of one first deputy or first assistant of heads of departments;
- (3) Positions of deputy county attorneys, deputy corporation counsel, deputy prosecuting attorneys, and law clerks;
- (4) Positions of members of any board, commission, or agency;
- (5) Positions filled by students; positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973; and employees engaged in special research or demonstration projects approved by the mayor, for which projects federal funds are available;
- (6) Positions of district judges, jurors, jury commissioners, and witnesses;
- (7) Positions filled by persons employed by contract where the personnel director has certified and where such certification has received the approval of the commission that the service is special or unique, is essential to the public interest and that,

because of the circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;

- (8) Positions of a temporary nature needed in the public interest where the need for the same does not exceed ninety days; but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable; provided that the employment of any person for service of a temporary nature may be extended for good cause for an additional period not to exceed ninety days upon similar certification by the director, approved by the commission;
- (9) Positions of temporary election clerks in the office of the county clerk employed during election periods;
- (10) Positions specifically exempted from this part by any other state statutes;
- (11) Positions of one private secretary of heads of departments, but such positions shall be included in the position classification plan;
- (12) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the county and that fact is certified to by the director;
- (13) Positions filled by the severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to safely perform the duties of the positions[.]; and
- (14) Positions funded under the housing and urban development (HUD) section 8 housing assistance program which positions may be for the duration of the federal funding contract allocation; provided that this exemption shall not preclude each county from allocating general funds for these positions and establishing these positions as civil service positions.

The director shall determine the applicability of this section to specific positions and the director shall determine whether or not positions excluded by paragraphs (7) and (8) of this section shall be included in the position classification plan.

Nothing in this section shall be deemed to affect the civil service status of any incumbent, private secretary of heads of departments as it existed on May 7, 1977."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 3, 1987.)

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to clarify the permissibility of direct use applications of geothermal resources by allowing direct use applications of geothermal resources to be conducted both within and outside geothermal resource subzones and without a geothermal resource permit, provided the direct use application is in conformance with applicable state and county land use regulations.

SECTION 2. Section 205-5.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Geothermal resource subzones may be designated within the urban, rural, agricultural, and conservation land use districts established under section 205-2. Only those areas designated as geothermal resource subzones may be utilized for geothermal development activities in addition to those uses permitted in each land use district under this chapter. Geothermal development activities may be permitted within urban, rural, agricultural, and conservation land use districts in accordance with this chapter. “Geothermal development activities” means the exploration, development, or production of electrical energy from geothermal resources and direct use applications of geothermal resources[.]; provided that within the urban, rural, and agricultural land use districts, direct use applications of geothermal resources are permitted both within and outside of areas designated as geothermal resource subzones pursuant to section 205-5.2 if such direct use applications are in conformance with all other applicable state and county land use regulations and are in conformance with this chapter.”

SECTION 3. Section 205-5.1, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The use of an area for geothermal development activities within a geothermal resource subzone shall be governed by the board within the conservation district and, except as herein provided, by state and county statutes, ordinances, and rules not inconsistent herewith within agricultural, rural, and urban districts, except that no land use commission approval or special use permit procedures under section 205-6 shall be required for the use of such subzones. In the absence of provisions in the county general plan and zoning ordinances specifically relating to the use and location of geothermal development activities in an agricultural, rural, or urban district, the appropriate county authority may issue a geothermal resource permit to allow geothermal development activities. “Appropriate county authority” means the county planning commission unless some other agency or body is designated by ordinance of the county council. Such uses as are permitted by county general plan and zoning ordinances, by the appropriate county authority, shall be deemed to be reasonable and to promote the effectiveness and objectives of this chapter. Chapters 177, 178, 182, 183, 205A, 226, 342, and 343 shall apply as appropriate. If provisions in the county general plan and zoning ordinances specifically relate to the use and location of geothermal development activities in an agricultural, rural, or urban district, the provisions shall require the appropriate county authority to conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91, on any application for a geothermal resource permit to determine whether the use is in conformity with the criteria specified in subsection (e) for granting geothermal resource permits[.]; provided that within the urban, rural, and agricultural land use districts, direct use applications of

ACT 373

geothermal resources are permitted without any application for a geothermal resource permit both within and outside of areas designated as geothermal resource subzones pursuant to section 205-5.2 if such direct use applications are in conformance with all other applicable state and county land use regulations and are in conformance with this chapter."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 3, 1987.)

ACT 373

H.B. NO. 1536

A Bill for an Act Relating to Securities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 485-2, Hawaii Revised Statutes, is amended to read as follows:

**"§485-2 Commissioner of securities; rules and regulations; deputies; vacancies.** The administration of this chapter shall be vested in the [director of commerce and consumer affairs who shall ex officio be commissioner of securities. The commissioner may make, amend, and repeal such rules and regulations as may be necessary to carry out this chapter, including rules and regulations governing the impoundment of the proceeds of speculative and promotional securities, defining technical and trade terms used in this chapter, and limiting the amount of interest-bearing securities that may be registered in intrastate offerings.

The commissioner may, with the approval of the governor, appoint as many deputies as shall be authorized by the legislature. The deputies appointed under this chapter shall perform such duties as the commissioner shall generally or specifically direct. In case of vacancy in the office of the commissioner, or in case of the temporary inability of the commissioner, by reason of absence, physical disability, or other cause, to administer properly this chapter, the governor may designate a deputy appointed under this chapter, or the deputy director, to act for and in such commissioner's stead, and thereupon the officer thus designated shall have generally, for the time being, all the power and authority in this chapter conferred upon the commissioner.] commissioner of securities. The director of commerce and consumer affairs shall, with the approval of the governor, appoint the commissioner of securities who shall not be subject to chapters 76 and 77. The securities commissioner shall hold the commissioner's office at the pleasure of the director of commerce and consumer affairs and shall be responsible for the performance of the duties imposed under this chapter."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$55,404, or so much thereof as may be necessary for fiscal year 1987-1988, and \$55,404, or so much thereof as may be necessary for fiscal year 1988-1989 to carry out the purposes of this Act including the hiring of necessary staff. The sums appropriated shall be expended by the department of commerce and consumer affairs.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

## SECTION 4. This Act shall take effect upon its approval.

(Approved July 3, 1987.)

## ACT 374

H.B. NO. 220

A Bill for an Act Relating to Workers' Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition of "psychologist" to be appropriately inserted and to read:

"Psychologist" means a licensed clinical psychologist with a doctorate degree in psychology and who either has at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of the Health Service Providers in Psychology. When treatment or evaluation for an injury is provided by a psychologist, provision shall be made for appropriate medical collaboration when requested by the employer or the insurer, as provided by rules adopted in conformance with chapter 91."

2. By amending the definition of "physician" to read:

"Physician" includes a doctor of medicine, a dentist, a chiropractor, an osteopath, a naturopath, a psychologist, and an optometrist."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 7, 1987.)

## ACT 375

H.B. NO. 49

A Bill for an Act Relating to the Judiciary.

*Be It Enacted by the Legislature of the State of Hawaii:*

## PART I. GENERAL PROVISIONS

SECTION 1. **Short title.** This Act shall be known as the Judiciary Appropriations Act of 1987.SECTION 2. **Definitions.** Unless otherwise clear from the context, as used in this Act:

(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the judiciary (JUD) followed by a designated number for the program.

(b) "Means of financing," or "MOF," means the source from which funds are appropriated, or authorized, as the case may be, to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meanings:

A general fund

**ACT 375**

- B special fund
- N other federal funds
- C general obligation bond fund

(c) "Position ceiling" means the maximum number of permanent positions authorized for a particular program during a specified period or periods, as noted by an asterisk.

**PART II. PROGRAM APPROPRIATIONS**

**SECTION 3. Appropriations.** The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or authorized from the sources of funding specified to the judiciary for the fiscal biennium beginning July 1, 1987 and ending June 30, 1989. The total expenditures and the number of permanent established positions in each fiscal year of the fiscal biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided in this Act.

**PROGRAM APPROPRIATIONS**

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
<b>The Judicial System</b>							
1.	JUD101	Courts of Appeal					
		OPERATING	JUD	59.00*		59.00*	
				3,010,025A		3,027,135A	
2.	JUD111	Circuit Courts					
		OPERATING	JUD	329.50*		330.00*	
				13,117,758A		13,686,560A	
3.	JUD112	Family Courts					
		OPERATING	JUD	294.50*		312.50*	
				12,179,077A		12,667,005A	
4.	JUD121	District Courts					
		OPERATING	JUD	615.50*		615.50*	
				15,403,154A		15,221,878A	
			JUD	53.00*		53.00*	
				1,376,311B		1,395,506B	
5.	JUD201	Admin. Director Services					
		OPERATING	JUD	123.00*		124.00*	
		INVESTMENT CAPITAL	JUD	8,856,056A		8,837,085A	
				1,000,000C		C	

**SECTION 4.** Whenever the expending program of the judiciary, to which an appropriation is made, is changed due to legislation enacted during any session of the legislature which affects the appropriations made by this Act, the chief justice shall transfer the necessary funds and positions to the proper expending program; provided further that a report identifying all transfers implemented during the previous fiscal year shall be submitted to the legislature twenty days prior to the convening of each regular session.

**SECTION 5.** When the need arises, the chief justice, in administering an equitable and expeditious judicial process, is authorized to transfer a maximum of one per cent of the general fund appropriation for each year of



the biennium to the judiciary for research and development and operating purposes between programs; provided that such transfers are not in conflict with legislative intent as reflected by the budget worksheets provided by the legislature to the judiciary; provided that such transfer shall not be made to implement any collective bargaining contracts signed after this legislature adjourns sine die. Provided further that a report of all such transfers shall be made to the legislature twenty days prior to the convening of the 1988 and 1989 regular session.

SECTION 6. Where the chief justice or any agency or any government unit is able to secure federal funds or other property made available under any act of Congress, or any funds or other property from private organizations or individuals which are to be expended in connection with any program or works authorized by this Act, or otherwise, the chief justice or agency with the chief justice's approval shall have the power to enter into such undertaking with the proper offices or agencies of the federal government or private organizations or individuals. While most federal aid allocations are known and state matching funds are provided in this Act, there may be programs for which federal-state cost sharing is not yet determined. In such instances, the availability of federal funds shall be construed as a proportionate reduction of state costs whenever possible.

SECTION 7. Provided that the judiciary is authorized to transfer savings from its general fund appropriation to the driver education special fund to accommodate any temporary cash flow deficits; provided further that a report identifying all transfers implemented during the previous fiscal year shall be submitted to the legislature twenty days prior to the convening of each regular session.

SECTION 8. Provided that of the general fund appropriation for courts of appeal (JUD 101), the sum of \$31,848 in each year of biennium 1987-89 shall be used to employ one law clerk in the supreme court to facilitate the assignment of cases.

SECTION 9. Provided that of the general fund appropriation for circuit courts (JUD 111), the sum of \$243,837 in fiscal year 1987-88 and \$313,263 in fiscal year 1988-89 shall be used for purchases of service.

SECTION 10. Provided that of the general fund appropriation for circuit courts (JUD 111), the sum of \$40,498 in fiscal year 1987-88 and \$43,270 in fiscal year 1988-89 shall be expended for postage relating to jury pool selection and shall not be expended for any other purpose; provided further that the judiciary shall submit a report on postage expenditures to the legislature at least twenty days prior to the convening of the 1988 regular session.

SECTION 11. Provided that of the general fund appropriation for circuit courts (JUD 111), the sum of \$869,566 in fiscal year 1987-88 and \$1,235,234 in fiscal year 1988-89 shall be expended for juror fees and shall not be expended for any other purpose; provided further that the judiciary shall submit a report on juror fee expenditures to the legislature at least twenty days prior to the convening of the 1988 regular session.

SECTION 12. Provided that of the general fund appropriation for circuit courts (JUD 111), the sum of \$20,000 in fiscal year 1988 shall be used to purchase one GYRR electronic recording machine for the purpose of recording courtroom proceedings; provided further that one circuit court clerk enroll in a professional training course that teaches proper utilization

## ACT 375

of GYRR equipment for courtroom proceedings; provided further that the results of this pilot program be submitted to the legislature at least twenty days prior to the convening of the 1988 regular session.

SECTION 13. Provided that of the general fund appropriation for circuit courts (JUD 111), the sum of \$68,748 in each year of the biennium 1987-89 shall be appropriated to the third judicial circuit; provided further that these funds be used to establish the following positions: one court documents clerk and three clerk IIIs, for the purpose of processing documents in Kona.

SECTION 14. Provided that of the general fund appropriation for family courts (JUD 112), the sum of \$2,596,786 in fiscal year 1987-88 and \$2,382,257 in fiscal year 1988-89 shall be used for purchases of service including the sum of \$80,000 in fiscal year 1988 to be allocated to the Waikiki Community Center for therapeutic mediation and the sum of \$575,563 in fiscal year 1988 for domestic violence programs statewide.

SECTION 15. Provided that of the general fund appropriations for the district court program (JUD 121), the sum of \$6,500 or so much thereof as may be necessary in fiscal year 1987-88 shall be expended to purchase and install an air conditioning system at the Puna District Courthouse.

SECTION 16. Provided that if any currently filled permanent deputy sheriff positions (JUD 121) become vacant those positions shall be reclassified to provide for six full-time unarmed personnel to monitor security scanning devices such as x-ray machines and magnetometers.

SECTION 17. Provided that of the general fund appropriation for the district courts (JUD 121), the sum of \$48,960 in fiscal year 1987-88 shall be provided to implement a video arraignment pilot program.

SECTION 18. Provided that of the general fund appropriation for the district courts (JUD 121), the sum of \$284,225 will be used to purchase electronic security devices to increase the security system of the courts; provided further that the purchase of devices will include x-ray machines, magnetometers, hand-scan metal detectors, audible intrusion detectors, cardkey devices, and renovation of the facility where necessary to accommodate these devices; and provided further that security devices will be provided for the Honolulu District Court, First Circuit Court Complex, and the Second Circuit Court Complex.

SECTION 19. Provided that of the general fund appropriation for district courts (JUD 121), the sum of \$60,000 in fiscal year 1987-88 and \$60,000 in fiscal year 1988-89 shall be used to fund the following positions for a night court in Koolaupoko: one judge, one bailiff, and one district court clerk.

SECTION 20. Provided that of the general fund appropriation for administrative director of services (JUD 201), the sum of \$351,492 in fiscal year 1988 and \$372,029 in fiscal year 1989 shall be used for purchase of service including the sum of \$152,997 in fiscal year 1988 and \$158,434 in fiscal year 1989 to be allocated to the Neighborhood Justice Center; and the sum of \$100,220 in the fiscal year 1988 and \$110,571 in fiscal year 1989 for the protection and advocacy agency for guardianship services.

SECTION 21. Provided that of the general fund appropriation for the judiciary, \$250,000 in fiscal year 1987-88 and \$250,000 in fiscal year 1988-89 shall be used for the statewide summer hire program.

SECTION 22. Provided that in fiscal year 1987-88 the judiciary's office of planning and statistics shall:

- (1) Initiate a study on the feasibility of opening a night court in heavily populated areas using existing courtroom facilities; and
- (2) Review the need for a new district court in Kapaa as opposed to using existing courtroom facilities and/or increasing the use of those facilities.

Provided further that the judiciary shall submit their findings to the legislature prior to the convening of the 1988 legislative session.

SECTION 23. Provided that the judiciary review the compensation paid to the program director of the alternative dispute resolution and the arbitration administrator of court-annexed arbitration relative to that of other administrators in the judiciary and submit a report to the legislature at least twenty days prior to the convening of the 1988 legislative session.

**PART III. CAPITAL IMPROVEMENT PROJECTS**

SECTION 24. Capital improvement projects. The sum of \$1,000,000 appropriated or authorized in Part II of this Act for capital investment shall be expended for the projects listed below. Several related or similar projects may be combined into a single project, if such a combination is advantageous or convenient, for land acquisition, design, and construction purposes; provided that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars and are to be expended by the judiciary.

**CAPITAL IMPROVEMENT PROJECTS**

**STATE OF HAWAII**

ITEM NO.	CAPITAL PROJECT NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F

**The Judicial System**

**JUD201 - Admin. Director Services**

1. 003 Remodeling and Upgrading Judiciary Buildings, Statewide

Design, construction and furnishing of equipment to remodel and upgrade Judiciary buildings, statewide.

DESIGN		70	
CONSTRUCTION		800	
EQUIPMENT		30	
TOTAL FUNDING	JUD	900C	C

2. 004 Advance Planning Judiciary

Advance planning for statewide Judiciary facilities planning projects.

PLANS		100	
TOTAL FUNDING	JUD	100C	C

SECTION 25. Provided that of the general obligation bond appropriation for the judiciary (JUDCIP), the sum of \$100,000 or so much thereof as

## **ACT 375**

necessary in fiscal year 1987-88 shall be provided to initiate a comprehensive physical development plan for the judiciary which should contain such elements as:

- (1) Physical plans,
- (2) Long range goals and objectives,
- (3) A statement of policy including the role of rural courts in each judicial circuit,
- (4) Development of a prototype rural court.

Provided further that the judiciary shall submit the comprehensive physical development plan to the legislature twenty days prior to the convening of the 1988 legislative session.

### **PART IV. ISSUANCE OF BONDS**

**SECTION 26.** General obligation bonds. General obligation bonds may be issued, as provided by law, to yield the amount that may be necessary to finance projects authorized in Part II and listed in Part III of this Act, provided that the sum total of the general obligation bonds so issued shall not exceed \$1,000,000.

### **PART V. SPECIAL PROVISIONS**

**SECTION 27.** Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in Part II and listed in Part III of this Act shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all appropriations made to be expended in fiscal biennium 1987-89 which are unencumbered as of June 30, 1990 shall lapse as of that date.

**SECTION 28.** The judiciary is authorized to delegate the acquisition of land, planning, design, and construction of any capital improvement project when it is determined by the judiciary that it is an advantage to do so.

**SECTION 29.** All unrequired balances, after the objectives of appropriations made in Part II for capital investment purposes from the general obligation fund and listed as projects in Part III have been met, shall be transferred to the judiciary project adjustment fund.

**SECTION 30.** In the event that the amount specified for a capital investment project listed in Part III is insufficient and where the source of funding for the project is designated as the general obligation bond fund, the chief justice may make supplemental allotments from the project adjustment fund; provided that such supplemental allotments shall not be used to increase the scope of the project; provided further that a report of such supplemental allotments and transfers for the period ending December 31 of each calendar year shall be made to the legislature by February 1 of the following calendar year.

**SECTION 31.** Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a project listed in Part III, the chief justice may authorize such reduction of project scope; provided that the scope of a project shall not be reduced merely because the appropriation for the project is insufficient.

**SECTION 32.** The chief justice shall determine when and the manner in which the authorized projects shall be initiated. He shall notify the governor from time to time of the specific amounts required for the projects,

and the governor shall provide for such amounts through the issuance of bonds authorized in Part IV.

**PART VI. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE**

**SECTION 33. Severability.** If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective and intent of such appropriation to the extent possible.

**SECTION 34. Manifest errors.** In the event manifest clerical, typographical, or other mechanical errors are found in this Act, the chief justice is authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

**SECTION 35. Effective date.** This Act shall take effect on July 1, 1987.

(Approved July 7, 1987.)

**ACT 376**

S.B. NO. 1424

A Bill for an Act Relating to Family Court-Appointed Attorneys and Guardians Ad Litem.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 571, Hawaii Revised Statutes, is amended by adding a new section to part VIII to be appropriately designated and to read as follows:

**“§571- Appointment of counsel and guardian ad litem; compensation.** (a) When it appears to a judge that a person requesting the appointment of counsel satisfies the requirements of chapter 802 for determination of indigency, or the court in its discretion appoints counsel under chapter 587, or that a person requires appointment of a guardian ad litem, the judge shall appoint counsel or a guardian ad litem to represent the person at all stages of the proceedings, including appeal, if any. Appointed counsel and the guardian ad litem shall receive reasonable compensation for necessary expenses, including travel, the amount of which shall be determined by the court, and fees pursuant to subsection (b). All of these expenses shall be certified by the court and paid upon vouchers approved by the judiciary and warrants drawn by the comptroller.

(b) The court shall determine the amount of reasonable compensation to appointed counsel and guardians ad litem, based on the rate of \$40 an hour for out-of-court services, and \$60 an hour for in-court services with a maximum fee in accordance with the following schedule:

- (1) Cases arising under chapter 587:
  - (A) Predisposition \$1,500;
  - (B) Postdisposition review hearing \$ 500;
- (2) Cases arising under chapters 560, 571, 580, and 584 \$1,500.

Payments in excess of any maximum provided for under paragraphs (1) and (2) may be made whenever the court in which the representation was

## ACT 377

rendered certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the administrative judge of such court.”

SECTION 2. The amendments made by this Act shall apply to any action or proceeding which is commenced on or after the date of its approval and, to the extent permitted by law, to any action or proceeding which is pending on the date of such approval.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1.5 million, or so much thereof as may be necessary for fiscal year 1987-1988, and \$1.5 million or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this Act. The sums appropriated shall be expended by the judiciary.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved July 7, 1987.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 377

H.B. NO. 445

A Bill for an Act Relating to Dislocated Workers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 394B-1, Hawaii Revised Statutes, is amended to read as follows:

**“[[§394B-1]] Findings and purpose. The legislature finds that there is a need for employment and training assistance for dislocated workers in Hawaii[,] and that there is a need to protect employees from the effects of unexpected and sudden lay-offs or terminations resulting from closings, plant closures, partial plant closures, and relocations.”**

SECTION 2. Section 394B-2, Hawaii Revised Statutes, is amended to read as follows:

**“§394B-2<sup>1</sup> Definitions.** As used in this chapter:

**“Closing” means the permanent shutting down of all operations within a covered establishment due to the sale, transfer, merger, and other business takeover or transaction of business interests which results in or may result in the lay-off or termination of employees of a covered establishment by the employer.**

**“Covered establishment” means any industrial, commercial, or other business entity which employs at any time in the preceding twelve-month period, fifty or more persons.**

**“Department” means the department of labor and industrial relations.**

**“Director” means the director of labor and industrial relations.**

**“Dislocated worker” means an individual who:**

- (1) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment compensation, and is

unlikely to return to the person's previous industry or occupation; or

- (2) Has been terminated or who has received a notice of termination of employment, as a result of any permanent closure of a business, partial closings, and relocation as defined in this section; or
- (3) Is a long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including any older individual who may have substantial barriers to employment by reason of age.

"Employee" means any individual engaged in service to an employer.

"Employer" means any person who, directly or indirectly, owns, operates or has a controlling interest in a covered establishment, excluding the state or any political subdivision thereof.

"Partial closing" means the permanent shutting down of a portion of operations within a covered establishment due to the sale, transfer, merger, and other business takeover or transaction of business interests and results in or may result in the termination of a portion of the employees of a covered establishment by the employer.

"Person" means one or more individuals, partnerships, associations, corporations, business trust, legal representatives, or any organized group of persons.

"Relocation" means the removal of all or substantially all of the industrial<sup>1</sup> commercial or business operations in a covered establishment to a location outside the state of Hawaii."

SECTION 3. Chapter 394B, Hawaii Revised Statutes, is amended by adding the following new sections to be appropriately designated and to read as follows:

**"§394B- Notification.** An employer in a covered establishment shall provide to each employee and the director written notification of a closing, partial closing, or relocation at least forty-five days prior to its occurrence.

**§394B- Dislocated worker allowance.** (a) Whenever a closing, partial closing, or relocation occurs, the employer shall provide each affected employee who applies for and is found eligible for unemployment compensation benefits for a particular week under chapter 383 and based in whole or in part upon employment in the closed, partial closed, or relocated plant a payment, denominated a dislocated worker allowance as a supplement to any unemployment compensation benefit received for that week.

(b) The amount of such weekly payment shall be the difference between the employee's average weekly wages (including any payments for periods of compensated leave) prior to the closing (partial closing or relocation) and the weekly unemployment compensation benefits received.

(c) For any one closing, partial closing, or relocation, an otherwise eligible employee ceases to be eligible for a dislocated worker allowance once he or she has received such an allowance from the covered employer for a total of four weeks.

(d) Receipt of a dislocated employee allowance shall not affect an employee's eligibility for unemployment compensation benefits for any week, or the amount of such benefits.

(e) The director of labor and industrial relations may adopt, amend, or repeal such rules and regulations as the director deems necessary or suitable for the administrations of this chapter. The rules and regulations

## ACT 378

when prescribed in accordance with chapter 91 shall have the force and effect of law and shall be enforced in the same manner as this chapter.

(f) Notwithstanding the provisions of this section, any contractual agreement arrived at through a collective bargaining process that results in providing supplemental unemployment compensation benefits for an affected employee shall supersede, with respect to that employee, the requirements of this section.

**§394B- Prompt payment of wages and benefits.** An employer in a covered establishment shall pay on the effective date of a closing, partial closing, or relocation to each employee all wages, benefits, and other forms of compensation due and owing to said employee.

**§394B- Civil penalties.** Any employer who fails to conform to the provisions of this chapter shall be liable to each of the employees affected in an amount equal to the value of all their wages, benefits, and other compensation for the three months preceding the closure, partial closure, or relocation of the covered establishment.

**§394B- Employees remedies.** (a) An action by an employee to enforce the provisions of this chapter may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of oneself or themselves, or the employee or employees may designate an agent or representative to maintain the action.

(b) The court in any action brought under this section shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow costs of action, including costs of fees of any nature, and reasonable attorney's fees, to be paid by the defendant.

(c) The court may also provide injunctive relief in appropriate circumstances."

SECTION 4. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid application or provision, and to this end the provisions of this part are severable.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 6. This Act shall take effect upon approval.

(Approved July 7, 1987.)

### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 378

H.B. NO. 1357

A Bill for an Act Relating to Contested Cases.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 205-5.1, Hawaii Revised Statutes, is amended to read as follows:



**§205-5.1 Geothermal resource subzones.** (a) Geothermal resource subzones may be designated within the urban, rural, agricultural, and conservation land use districts established under section 205-2. Only those areas designated as geothermal resource subzones may be utilized for geothermal development activities in addition to those uses permitted in each land use district under this chapter. Geothermal development activities may be permitted within urban, rural, agricultural, and conservation land use districts in accordance with this chapter. "Geothermal development activities" means the exploration, development, or production of electrical energy from geothermal resources and direct use applications of geothermal resources.

(b) The board of land and natural resources shall have the responsibility for designating areas as geothermal resource subzones as provided under section 205-5.2; except that the total area within an agricultural district which is the subject of a geothermal mining lease approved by the board of land and natural resources, any part or all of which area is the subject of a special use permit issued by the county for geothermal development activities, on or before May 25, 1984, is designated as a geothermal resource subzone for the duration of the lease. The designation of geothermal resource subzones shall be governed exclusively by this section and section 205-5.2, except as provided therein. The board shall adopt, amend, or repeal rules related to its authority to designate and regulate the use of geothermal resource subzones in the manner provided under chapter 91.

The authority of the board to designate geothermal resource subzones shall be an exception to those provisions of this chapter and of section 46-4 authorizing the land use commission and the counties to establish and modify land use districts and to regulate uses therein. The provisions of this section shall not abrogate nor supersede the provisions of chapters 182 and 183.

(c) The use of an area for geothermal development activities within a geothermal resource subzone shall be governed by the board within the conservation district and, except as herein provided, by state and county statutes, ordinances, and rules not inconsistent herewith within agricultural, rural, and urban districts, except that no land use commission approval or special use permit procedures under section 205-6 shall be required for the use of such subzones. In the absence of provisions in the county general plan and zoning ordinances specifically relating to the use and location of geothermal development activities in an agricultural, rural, or urban district, the appropriate county authority may issue a geothermal resource permit to allow geothermal development activities. "Appropriate county authority" means the county planning commission unless some other agency or body is designated by ordinance of the county council. Such uses as are permitted by county general plan and zoning ordinances, by the appropriate county authority, shall be deemed to be reasonable and to promote the effectiveness and objectives of this chapter. Chapters 177, 178, 182, 183, 205A, 226, 342, and 343 shall apply as appropriate. If provisions in the county general plan and zoning ordinances specifically relate to the use and location of geothermal development activities in an agricultural, rural, or urban district, the provisions shall require the appropriate county authority to conduct a public hearing [and, upon appropriate request, a contested case hearing pursuant to chapter 91,] on any application for a geothermal resource permit to determine whether the use is in conformity with the criteria specified in subsection (e) for granting geothermal resource permits.

(d) If geothermal development activities are proposed within a conservation district, [then, after receipt of a properly filed and completed

## ACT 378

application,] with an application with all required data, the board of land and natural resources shall conduct a public hearing and, upon appropriate request[, a contested case hearing pursuant to chapter 91 to] for mediation from any party who submitted comment at the public hearing, the board shall appoint a mediator within five days. The board shall require the parties to participate in mediation. The mediator shall not be a member of the board or its staff. The mediation period shall not extend beyond thirty days after the date mediation started, except by order of the board. Mediation shall be confined to the issues raised at the public hearing by the party requesting mediation. The mediator will submit a written recommendation to the board, based upon any mediation agreement reached between the parties for consideration by the board in its final decision. If there is no mediation agreement, the board may have a second public hearing to receive additional comment related to the mediation issues. Within ten days after the second public hearing, the board may receive additional written comment on the issues raised at the second public hearing from any party.

The board shall consider the comments raised at the second hearing before rendering its final decision. The board shall then determine whether, pursuant to board [regulations,] rules, a conservation district use permit shall be granted to authorize the geothermal development activities described in the application. The board shall grant a conservation district use permit if it finds that the applicant has demonstrated [by a preponderance of the evidence] that:

- (1) The desired uses would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property; and
- (2) The desired uses would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection; or
- (3) There are reasonable measures available to mitigate the unreasonable adverse effects or burdens referred to above.

A decision shall be made by the board[:

- (1) Within] within six months of the date a complete application was filed [if no contested case hearing is held; or
- (2) Within nine months of the date a complete application was filed if a contested case hearing is held];

provided that the time [limits] limit may be extended by agreement between the applicant and the board.

[The board may, at any time after a contested case is requested, and after the parties have been determined, appoint a special master for the specific purpose of mediation. Prior to a contested case hearing, the board shall require parties to participate in a settlement conference conducted by the special master or the special master's designee, neither of whom shall be a member of the board or its staff. The settlement conferences and mediation shall not extend beyond thirty days after the parties are determined, except upon the mutual agreement of all parties.]

(e) If geothermal development activities are proposed within agricultural, rural, or urban districts and such proposed activities are not permitted uses pursuant to county general plan and zoning ordinances, then after receipt of a properly filed and completed application, including all required supporting data, the appropriate county authority shall conduct a public hearing [and, upon]. Upon appropriate request[, a contested case hearing pursuant to chapter 91 to] for mediation from any party who submitted comment at the public hearing, the county authority shall appoint a mediator within five days. The county authority shall require the parties to

participate in mediation. The mediator shall not be an employee of any county agency or its staff. The mediation period shall not extend beyond thirty days after mediation started, except by order of the county authority. Mediation shall be confined to the issues raised at the public hearing by the party requesting mediation. The mediator will submit a written recommendation to the county authority, based upon any mediation agreement reached between the parties for consideration by the county authority in its final decision. If there is no mediation agreement, the county authority may have a second public hearing to receive additional comment related to the mediation issues within ten days after the second public hearing, the county authority may receive additional written comment on the issues raised at the second public hearing from any party.

The county authority shall consider the comments raised at the second hearing before rendering its final decision. The county authority shall then determine whether a geothermal resource permit shall be granted to authorize the geothermal development activities described in the application. The appropriate county authority shall grant a geothermal resource permit if it finds that applicant has demonstrated [by a preponderance of the evidence] that:

- (1) The desired uses would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property;
- (2) The desired uses would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection; and
- (3) That there are reasonable measures available to mitigate the unreasonable adverse effects or burdens referred to above.

Unless there is a mutual agreement to extend, a decision shall be made on the application by the appropriate county authority within six months of the date a complete application was filed; provided that [if a contested case hearing is held, the final permit decision shall be made within nine months of the date a complete application was filed.] the time limit may be extended by agreement between the applicant and the appropriate county authority.

(f) [Any other law to the contrary notwithstanding, including chapter 91, any appeal of a contested case hearing under this section shall be made upon the record directly to the supreme court for final decision; provided that for a contested case hearing under this section initiated after April 30, 1990, any appeal shall be made in conformity with chapter 91, including judicial review by the circuit court under section 91-14.] Requests for mediation shall be received by the board or county authority within five days after the close of the initial public hearing. Within five days thereafter, the board or county authority shall appoint a mediator. Any person submitting an appropriate request for mediation shall be notified by the board or county authority of the date, time, and place of the mediation conference by depositing such notice in the mail to the return address stated on the request for mediation. The notice shall be mailed no later than ten days before the start of the mediation conference. The conference shall be held on the island where the public hearing is held.

(g) Any decision made by an appropriate county authority or the board pursuant to a public hearing or hearings under this section may be appealed directly on the record to the supreme court for final decision and shall not be subject to a contested case hearing. Sections 91-14(b) and (g) shall govern the appeal, notwithstanding the lack of a contested case hearing on the matter. The appropriate county authority or the board shall provide a

court reporter to produce a transcript of the proceedings at all public hearings under this section for purposes of an appeal.

(h) For the purposes of an appeal from a decision from a public hearing, the record shall include:

- (1) The application for the permit and all accompanying supporting documents, including but not limited to: reports, studies, affidavits, statements, and exhibits.
- (2) Staff recommendations submitted to the members of the agency in consideration of the application.
- (3) Oral and written public testimony received at the public hearings.
- (4) Written transcripts of the proceedings at the public hearings.
- (5) The written recommendation received by the agency from the mediator with any mediation agreement.
- (6) A statement of relevant matters noticed by the agency members at the public hearings.
- (7) The written decision of the agency issued in connection with the application and public hearings.
- (8) Other documents required by the board or county authority."

SECTION 2. Section 205-5.2, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) After the board has completed a county-by-county assessment of all areas with geothermal potential or after any subsequent update or review, the board shall compare all areas showing geothermal potential within each county, and shall propose areas for potential designation as geothermal resource subzones based upon a preliminary finding that the areas are those sites which best demonstrate an acceptable balance between the factors set forth in subsection (b). Once such a proposal is made, the board shall conduct public hearings pursuant to this subsection, notwithstanding any contrary provision related to public hearing procedures. Contested case procedures are not applicable to these hearings.

- (1) Hearings shall be held at locations which are in close proximity to those areas proposed for designation. A public notice of hearing, including a description of the proposed areas, an invitation for public comment, and a statement of the date, time, and place where persons may be heard shall be published and mailed no less than twenty days before the hearing. The notice shall be published on three separate days in a newspaper of general circulation statewide and in the county in which the hearing is to be held. Copies of the notice shall be mailed to the department of planning and economic development, to the planning commission and planning department of the county in which the proposed areas are located, and to all owners of record of real estate within, and within one thousand feet of, the area being proposed for designation as a geothermal resource subzone. The notification shall be mailed to the owners and addresses as shown on the current real property tax rolls at the county real property tax office. Upon such action, the requirement for notification of owners of land is completed. For the purposes of this subsection, notice of<sup>1</sup> one co-owner shall be sufficient notice to all co-owners.
- (2) The hearing shall be held before the board, and the authority to conduct hearings shall not be delegated to any agent or representative of the board. All persons and agencies shall be afforded the

opportunity to submit data, views, and arguments either orally or in writing. The department of planning and economic development and the county planning department shall be permitted to appear at every hearing and make recommendations concerning each proposal by the board.

- (3) At the close of the hearing, the board may designate areas as geothermal resources<sup>1</sup> subzones or announce the date on which it will render its decision. The board may designate areas as geothermal resources<sup>1</sup> subzones only upon finding that the areas are those sites which best demonstrate an acceptable balance between the factors set forth in subsection (b). Upon request, the board shall issue a concise statement of its findings and the principal reasons for its decision to designate a particular area.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, applications that were completed and proceedings that were begun, before its effective date.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 7, 1987.)

Note

1. So in original.

ACT 379

H.B. NO. 1841

A Bill for an Act Relating to Land and Natural Resources.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

“**§76-16 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the State now existing or hereafter established and embraces all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature

- and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
  - (5) Employees in the office of the governor and household employees at Washington Place and eight employees in the office of the lieutenant governor;
  - (6) Positions filled by popular vote;
  - (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
  - (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
  - (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, and one law clerk for each judge of the circuit court and the administrative judge of the district court of the first circuit (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); sheriff, first deputy sheriff, and second deputy sheriff; and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
  - (10) First deputy and deputy attorneys general and law clerks;
  - (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
  - (12) Employees engaged in special, research, or demonstration projects approved by the governor, for which projects federal funds are available;
  - (13) Positions filled by inmates, kokuas, and patients of state institutions, and persons with severe physical or mental handicaps participating on the work experience training programs, students, and positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
  - (14) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
  - (15) Positions filled by persons employed on a fee, contract, or piece-work basis who may lawfully perform their duties concurrently

- with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, Article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of social services and housing either in charge of welfare or such other functions within the department as may be assigned by the director of social services; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; one additional deputy in the department of planning and economic development to perform the duties assigned by the director of planning and economic development and approved by the governor; one additional deputy within the department of land and natural resources to perform the duties to be assigned by the chairperson of the board of land and natural resources; and an administrative assistant to the superintendent of education;
  - (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
  - (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects;
  - (19) Household employees at the official residence of the president of the University of Hawaii;
  - (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
  - (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that no more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
  - (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii which require hiring of nutrition program assistants who live in the areas they serve; and
  - (23) Positions filled by the severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to safely perform the duties of the positions.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

**ACT 380**

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 7, 1987.)

**ACT 380**

S.B. NO. 154

A Bill for an Act Relating to the Establishment of a Computerized Fingerprint Identification System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the establishment of a computerized fingerprint identification system using an automatic fingerprint identification system to apply modern technology to law enforcement is a matter of compelling interest to assure the safety and protection of persons and property in Hawaii. Fingerprint evidence is the best tool available to law enforcement agencies for the identification, apprehension, prosecution, and conviction of criminal offenders. Furthermore, the legislature finds that such vital evidence is seriously underutilized by state and county law enforcement agencies due to the archaic manual methods currently used for reading, classifying, storing, retrieving, and comparing fingerprint evidence. The legislature finds that modernization of fingerprint evidence processing increases significantly the speed and accuracy of criminal investigations; makes possible the solution of previously unsolvable cases; increases the amount of stolen property recovered; increases the rate of successful prosecutions; deters criminal activity; and enhances cooperative efforts among federal, state, and county law enforcement agencies.

Accordingly, the purpose of this Act is to establish a computerized fingerprint identification system through the purchase of an automatic fingerprint identification system.

SECTION 2. Chapter 846, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§846- Computerized fingerprint identification system.** There is established within the Hawaii criminal justice data center a computerized fingerprint identification system. The computerized fingerprint identification system shall use as its primary resource an automatic fingerprint identification system. The department of the attorney general shall coordinate the use of this system and equipment with federal, state, and county law enforcement agencies.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4.5 million, or so much thereof as may be necessary for fiscal year 1987-1988, for the purpose of this Act. The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.

SECTION 4. New statutory material is underscored<sup>1</sup>.

SECTION 5. This Act shall take effect on July 1, 1987.

(Became law on July 7, 1987, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

**Note**

1. Edited pursuant to HRS §23G-16.5.



## ACT 381

A Bill for an Act Relating to Workers' Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to organize and sponsor a conference on the Hawaii worker's compensation state fund created by the legislature in 1985. Drawing upon the past experiences and resources from other states where funds of a similar nature are operational the conference shall provide businesses, labor organizations, insurance carriers, governmental officials, and others an opportunity to discuss how best to implement the objectives of the Hawaii fund. The department of labor and industrial relations shall report the findings and recommendations of this conference to the legislature twenty days prior to the convening of the regular session of 1988.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000, or so much thereof as may be necessary for fiscal year 1987-1988, to effectuate the purposes of this Act.

SECTION 3. The sum appropriated shall be expended by the department of labor and industrial relations for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Became law on July 7, 1987, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 382

A Bill for an Act Relating to the Honolulu Symphony.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

“§ - **Honolulu symphony endowment fund created.** There shall be established a fund to be known as the Honolulu symphony endowment fund which shall be administered by the department of accounting and general services. The income from the endowment fund shall be used for operations of the Honolulu symphony. The aggregate principal sum in the endowment fund shall be invested by the department in a manner which will preserve the principal sum and maximize the rate of return on investment of the fund. The department, in accord with chapter 91, may adopt rules to carry out the purposes of this section.”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii a sum up to \$500,000 in fiscal year 1987-1988, and a sum up to \$500,000 in fiscal year 1988-1989 to establish the Honolulu symphony endowment fund. This sum shall be made available to the fund in fiscal year 1987-1988 and fiscal year 1988-1989; to be matched by the Honolulu symphony on a one-to-one basis through a special fund raising effort, separate and apart from the symphony's annual fund raising drive. Any state funds not matched by the Honolulu symphony by the end of fiscal year 1989 shall revert to the general fund.

**ACT 383**

SECTION 3. The sums appropriated shall be expended for the purposes of this Act by the department of accounting and general services.

SECTION 4. New statutory material is underscored<sup>1</sup>.

SECTION 5. This Act shall take effect on July 1, 1987.

(Became law on July 7, 1987, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 383**

H.B. NO. 1421

A Bill for an Act Making an Appropriation for the Kalakaua Avenue Safety and Beautification Project, Oahu.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to make a grant-in-aid to the city and county of Honolulu for the Kalakaua Avenue Safety and Beautification Project.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,560,000, or so much thereof as may be necessary for fiscal year 1987-1988, for a grant-in-aid to the city and county of Honolulu for the Kalakaua Avenue Safety and Beautification Project.

The sum appropriated shall be expended by the city and county of Honolulu for the purposes of this Act.

SECTION 3. The city and county of Honolulu shall not expend any moneys granted to or received by it from the state treasury for the Kalakaua Avenue Safety and Beautification Project; except that the city and county of Honolulu may expend for the project the state moneys appropriated under this Act and item V.80.A.1A. of Act 301, Session Laws of Hawaii 1983, as amended by Act 285, Session Laws of Hawaii 1984.

SECTION 4. This Act shall take effect on July 1, 1987.

(Became law on July 7, 1987, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

**ACT 384**

H.B. NO. 1924

A Bill for an Act Making an Appropriation for Building Improvements to the Richards Street YWCA.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as may be necessary for fiscal year 1987-1988, for building improvements to the Richards Street YWCA. This building has been designated as a state historic site, is located within the Capitol district, and has served the needs of the people of Hawaii for the past sixty years.

**SECTION 2.** The sum appropriated shall be a grant-in-aid to be expended by the department of accounting and general services for the purposes of this Act.

**SECTION 3.** This Act shall take effect on July 1, 1987.

(Became law on July 7, 1987, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

# PROPOSED CONSTITUTIONAL AMENDMENTS

## H.B. NO. 572

A Bill for an Act Proposing an Amendment to Article III, Section 4, and Article IV, Section 8, of the Constitution of the State of Hawaii to Amend the Date of Election of a Candidate for the Legislature who is Unopposed After the Primary Election.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to propose an amendment to Article III, section 4, and Article IV, section 8, of the Constitution of the State of Hawaii to provide that a candidate for a seat in the legislature who is unopposed after the primary election shall be deemed elected to that seat at the primary election, to provide that the term of office of the member elected at a primary election shall begin on the date of the general election, and to conform language in the provision specifying the method for determining senators of the first class when necessary to implement staggered terms.

SECTION 2. Article III, section 4, of the Constitution of the State of Hawaii is amended to read as follows:

### **“ELECTION OF MEMBERS: TERM**

Section 4. [The members] Each member of the legislature shall be elected at [general elections.] an election. If more than one candidate has been nominated for election to a seat in the legislature, the member occupying that seat shall be elected at a general election. If a candidate nominated for a seat at a primary election is unopposed for that seat at the general election, the candidate shall be deemed elected at the primary election. The term of office of [members] a member of the house of representatives shall be two years [beginning with their election and ending on the day of the next general election,] and the term of office of [members] a member of the senate shall be four years [beginning with their election and ending on the day of the second general election after their election.] The term of a member of the legislature shall begin on the day of the general election at which elected or if elected at a primary election, on the day of the general election immediately following the primary election at which elected. For a member of the house of representatives, the term shall end on the day of the general election immediately following the day the member's term commences. For a member of the senate, the term shall end on the day of the second general election immediately following the day the member's term commences.”

SECTION 3. Article IV, section 8, of the Constitution of the State of Hawaii is amended to read as follows:

### **“RETENTION OF STAGGERED TERMS FOR THE SENATE**

Section 8. The senate shall be composed of senators who serve staggered terms of office as follows: senatorial districts with one member, the term of office shall end as provided by the constitution; senatorial districts with two members, each member shall serve a term ending on the date of a different general election; senatorial districts with three members, (A) two members shall serve a term ending on the date of the same general election and (B) one member shall serve a term ending on the date of a general election different than the other two members; senatorial districts with four members, (A) two members shall serve a term ending on the date of the same

## PROPOSED CONSTITUTIONAL AMENDMENT

general election and (B) two members shall serve a term ending on the date of a general election different than the other two members.

If, [in] on the date of the first or second general election [in which senators are elected] after a reapportionment, the number of senators in a senatorial district whose terms would end on a date of a general election will be more than that set forth in the above paragraph, then [at] for the election of members of the senate whose terms begin on the date of such general election, the members of the senate shall be divided into two classes. The members of the first class shall hold office for a term of four years beginning [with their election] on the day of the general election at which elected or on the day of the general election immediately following the primary election at which elected and ending on the day of the second general election held thereafter. The first class shall consist of that number of persons [with the highest number of votes] necessary to fulfill item (B) in the above paragraph for senatorial districts with three or four members or one person in senatorial districts with two members. If persons are elected at a primary election or general election in a senatorial district, the first class for that district shall consist of that number of persons with the highest number of votes in the primary election or general election, as the case may be, necessary to fill the first class membership of that district. The remaining persons shall constitute the second class and shall hold office for a term of two years beginning [with their election] on the day of the general election at which elected or on the day of the general election immediately following the primary election at which elected and ending on the day of the next general election held thereafter."

SECTION 4. The question to be printed on the ballot shall be as follows:

"Shall a candidate for a seat in the legislature who is unopposed after the primary election be deemed elected to that seat at the primary election with the term of office of the member elected at a primary election beginning on the date of the general election, and shall the language specifying the method by which senators elected after reapportionment are assigned to two- or four-year terms when reapportionment establishes multimember districts be conformed to such an election method?"

SECTION 5. Constitutional material to be repealed is bracketed. New constitutional material is underscored.

SECTION 6. This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

### Note

1. So in original.

## H.B. NO. 1267

A Bill for an Act Proposing an Amendment to Article II, Section 1, of the Hawaii Constitution, to Change the Age Qualification for Voting.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to propose an amendment to Article II, section 1, of the Constitution of the State of Hawaii to change the age qualification for voting to include all those who shall have not attained

## PROPOSED CONSTITUTIONAL AMENDMENT

the age of eighteen on or before the day of the election, but who will attain that age on or before December 31 of the year in which the election is held.

SECTION 2. Article II, section 1, of the Constitution of the State of Hawaii is amended to read as follows:

### “QUALIFICATIONS

Section 1. Every citizen of the United States who shall have attained the age of eighteen years[,] on or before December 31 of the year in which the election is held, have been a resident of this State not less than one year next preceding the election and be a voter registered as provided by law, shall be qualified to vote in any state or local election.”

SECTION 3. The question to be printed on the ballot shall be as follows:

“Shall the age qualification for voting in the State of Hawaii be changed to include not only those who shall have attained the age of eighteen years on or before the date of the election, but also those who shall have attained the age of eighteen years on or before December 31 of the year in which the election is held?”

SECTION 4. Constitutional material to be repealed is bracketed. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

## S.B. NO. 107

A Bill for an Act Proposing an Amendment to Article I, Section 13, of the Hawaii Constitution, to Change the Jurisdictional Amount Required for Jury Trials in Civil Cases.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to propose an amendment to Article I, section 13, of the Constitution of the State of Hawaii to change the jurisdictional amount for jury trials in civil cases. The intent of the amendment is to allow the legislature to establish the value in controversy for jury trials.

SECTION 2. Article I, section 13, of the Constitution of the State of Hawaii is amended to read as follows:

### “TRIAL BY JURY, CIVIL CASES

Section 13. In suits at common law where the value in controversy shall exceed [one] five thousand dollars, the right of trial by jury shall be preserved. The legislature may provide for a verdict by not less than three-fourths of the members of the jury.”

SECTION 3. The question to be printed on the ballot shall be as follows:

“Shall the constitutional right to a jury trial in civil cases, now limited to those cases where the value in controversy exceeds \$1,000, be amended to preserve that right in civil cases where the value in controversy exceeds \$5,000?”

## PROPOSED CONSTITUTIONAL AMENDMENT

SECTION 4. Constitutional material to be repealed is bracketed. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

### S.B. NO. 1139

A Bill for an Act Proposing an Amendment to Article II, Section 1, of the Hawaii Constitution, to Change the Residency Qualification for Voting.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to propose an amendment to Article II, section 1, of the Constitution of the State of Hawaii to eliminate the one-year residency requirement.

SECTION 2. Article II, section 1, of the Constitution of the State of Hawaii is amended to read as follows:

#### “QUALIFICATIONS

Section 1. Every citizen of the United States who shall have attained the age of eighteen years, [have been] is a resident of this<sup>1</sup> State [not less than one year next preceding the election] and [be] is a voter registered as provided by law, shall be qualified to vote in any state or local election.”

SECTION 3. The question to be printed on the ballot shall be as follows:

“Shall the qualifications for voting in the State of Hawaii be changed to eliminate the one-year residency requirement which has been found unconstitutional by the United States Supreme Court?”

SECTION 4. Constitutional material to be repealed is bracketed. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

#### Note

1. So in original.

## COMMITTEE REPORTS ON MEASURES ENACTED AND VETOED

A Compilation of Acts and Vetoed Measures,  
Together with the Pertinent Committee Report References,  
Listed by Act Numbers

<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
1	HB 1	1	1	
2	SB 263	2	450	
3	SB 376	6	817	
4	SB 887	470	960	
5	HB 1494	851	355	
			667	
6	HB 312	939	514	
7	HB 314	820	18	
		1091	464	
8	SB 318	90	964	
		445		
9	SB 411	363	963	
10	SB 596	787	965	
11	HB 878	934	552	
12	HB 882	932	402	
			708	
13	HB 884	929	472	
14	HB 887	930	471	
15	HB 1324	805	69	
		1047	489	
16	HB 1520	943	143	
			773	
17	HB 883	931	395	
			709	
18	HB 1312	872	196	
		1046	756	
19	SB 735	52	875	SC 1
		518	1068	HC 1
20	HB 1759	1035	606	
21	HB 533	986	468	
22	HB 754	1015	333	
			643	
23	HB 858	935	400	
			780	
24	HB 1012	858	267	
		1018	636	
25	HB 1053	883	14	
		1106	181	
			793	
26	HB 1340	949	504	
27	HB 190	853	260	
		998	742	
28	HB 1477	933	506	
29	SB 58	475	848	
			1173	
30	SB 311	325	929	
		377	1165	
31	SB 323	541	928	
			1160	
32	SB 983	329	923	
		386	1163	



<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
33	SB 1442	123	891	
		688	1169	
34	SB 1530	525	866	
			1170	
35	SB 1704	469	924	
			1172	
36	SB 1726	785	851	
			1088	
37	SB 1737	283	926	
		395	1512	
38	SB 67	782	1039	
39	SB 81	364	1222	
40	SB 82	69	1221	
		444		
41	SB 143	369	1225	
42	SB 309	727	1187	
43	SB 140	367	1223	
44	SB 310	729	1185	
45	HB 35	873	348	HC 119
		995	754	SC 118
46	SB 45	758	1214	
47	SB 65	539	1213	
48	SB 66	639	1212	
49	SB 91	402	878	
			1162	
50	SB 125	762	1215	
51	SB 156	686	1181	
52	SB 258	564	1176	
53	SB 268	752	1049	
54	SB 301	244	930	
		373	1166	
55	SB 303	535	812	
			1161	
56	SB 304	201	880	
		375	1496	
57	SB 337	664	996	
58	SB 351	407	877	
			1167	
59	SB 365	354	1210	
60	SB 366	353	1209	
61	SB 368	412	1208	
62	SB 370	269	1226	
		431		
63	SB 393	414	1192	
64	SB 414	314	844	
		379	1112	
65	SB 434	404	854	
			1168	
66	SB 435	405	855	
			1491	
67	SB 442	415	984	
68	SB 447	417	1005	SC 30
				HC 72
69	SB 448	601	1188	
70	SB 449	484	1310	
71	SB 450	418	1202	
72	SB 451	419	1203	
73	SB 452	420	1205	

<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
74	SB 469	72	1003	SC 6 HC 6
75	SB 521	602	1204	
76	SB 568	555	997	
77	SB 589	617	1016	
78	SB 590	618	1015	
79	SB 594	790	822 1159	
80	SB 597	798	821 1506	
81	SB 611	136 382	931 1164	
82	SB 778	459	975	
83	SB 784	545	1216	
84	SB 791	547	1307	
85	SB 827	552	913 1074	
86	SB 882	93 592	816 1109	
87	SB 934	671	1022	
88	SB 959	629	909 1113	
89	SB 979	510	956 1130	
90	SB 980	86 436	1100	
91	SB 981	408	879 1504	
92	SB 982	624	977	
93	SB 997	625	852 1121	
94	SB 999	533	1184	
95	SB 1002	557	1567	
96	SB 1079	660	1001	
97	SB 1098	607	1518	
98	SB 1126	575	1011	
99	SB 1151	786	824 1501	
100	SB 1156	681	1037	
101	SB 1160	674	892 1510	
102	SB 1277	661	988	
103	SB 1286	606	1311	
104	SB 1287	493	1308	
105	SB 1323	652	894 1174	
106	SB 1342	648	993	
107	SB 1372	241 390	940 1079	
108	SB 1458	611	864 1046	
109	SB 1643	675	833 1171	
110	SB 1708	310 458	907 1070	
111	SB 1711	632	961	
112	SB 1722	371	1098	
113	SB 1733	567	1177	

<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
114	SB 1738	128	921	
		396	1493	
115	SB 1739	321	933	
		397	1494	
116	SB 1740	532	950	
			1119	
117	SB 1741	282	934	
		441	1492	
118	SB 1742	748	943	
			1498	
119	SB 1744	245	951	
		398	1133	
120	SB 1745	529	1306	
121	SB 1746	257	927	
		399	1495	
122	SB 1758	203	826	
		579	1513	
123	SB 1713	281	932	SC 43
		440	1129	HC 69
124	HB 285	969	526	HC 103
				SC 104
125	HB 477	1150	538	
126	HB 521	942	531	HC 79
				SC 32
127	HB 536	964	118	HC 8
			759	SC 10
128	HB 708	1145	120	
			628	
129	HB 922	1138	562	HC 84
				SC 89
130	HB 1002	1137	563	HC 60
				SC 85
131	HB 1233	1149	467	
132	HB 1327	1146	67	
			737	
133	HB 1585	980	569	HC 105
				SC 101
134	SB 1451	227	858	
		391	1089	
135	HB 1935	926	491	
136	SB 138	366	1224	
137	SB 216	429	1207	
138	SB 316	266	911	
		589	1116	
139	SB 800	784	1038	
140	SB 856	550	1211	
141	SB 877	424	1198	
142	SB 909	296	865	
		452	1505	
143	SB 1001	500	1189	
144	SB 1023	672	1200	
145	SB 1095	691	1217	
146	SB 1163	679	904	SC 68
			1136	HC 58
147	SB 1224	559	1190	
148	SB 1446	565	1047	SC 7
				HC 89
149	SB 1673	132	947	

<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
		393	1125	
150	SB 1748	124	887	SC 5
		520	1110	HC 10
151	HB 81	894	473	
		1120		
152	HB 489	972	522	HC 34
				SC 31
153	HB 497	940	532	
154	HB 520	1071	570	HC 98
				SC 102
155	HB 528	975	534	
156	HB 534	1482	501	
157	HB 872	976	601	HC 48
				SC 65
158	HB 890	936	153	
			726	
159	HB 898	1113	272	
			753	
160	HB 892	945	437	
			666	
161	HB 903	1135	547	HC 75
				SC 98
162	HB 1158	1112	519	
163	HB 1332	1162	279	
			749	
164	HB 1467	987	597	
165	HB 1486	877	394	
		1132	729	
166	HB 1529	1058	494	HC 55
				SC 34
167	HB 1849	966	596	HC 40
				SC 55
				HC 106
				SC 106
168	SB 35	3	872	
		523	1055	
169	SB 307	725	1186	
170	SB 419	478	1193	
171	SB 162	684	886	
			1106	
172	SB 432	293	937	SC 46
		709	1118	HC 71
173	SB 526	485	994	
174	SB 774	472	1014	
175	SB 785	546	1097	SC 72
				HC 54
176	SB 797	646	1036	
177	SB 1053	673	919	
			1503	
178	SB 1288	502	871	SC 25
			1124	HC 50
179	SB 1357	308	832	
		455	1509	
180	SB 1526	83	1201	
		561		
181	HB 3	1130	486	
			691	
182	HB 208	1065	513	HC 46

<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
183	HB 230	927	511	SC 87
184	HB 305	1333	508	
185	HB 374	1167	518	
186	HB 378	955	239	HC 16
			621	SC 21
187	HB 379	1470	594	
188	HB 413	970	537	
189	HB 463	864	697	
		1029		
190	HB 492	973	536	HC 49
				SC 67
191	HB 518	974	541	
192	HB 539	1446	550	
193	HB 681	1088	516	HC 5
				SC 11
194	HB 771	1443	566	
195	HB 1028	1168	593	
196	HB 1073	941	497	HC 56
				SC 33
197	HB 1079	888	555	
		1121		
198	HB 1102	937	398	
			750	
199	HB 1138	862	365	HC 29
		1093	736	SC 49
200	HB 1151	823	393	
		1044	762	
201	HB 1173	960	449	
202	HB 1256	1450	556	
203	HB 1487	821	399	
		1136	730	
204	HB 1510	957	171	
			732	
205	HB 1512	857	275	
		1043	632	
206	HB 1931	968	577	HC 78
				SC 84
207	HB 331	855	553	
		1062		
208	HB 1521	1055	524	HC 76
				SC 77
209	SB 1142	693	1032	SC 70
				HC 59
210	SB 1143	230	938	
		586	1111	
211	SB 1146	680	902	
			1063	
212	SB 1172	687	890	SC 17
			1134	HC 17
213	SB 1702	747	922	
			1514	
214	HB 1469	825	425	
		1051	649	
215	SB 1735	239	899	SC 113
		460	1092	HC 109
216	HB 2	1108	796	HC 45
				SC 80

<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
217	SB 1660	370	1094	SC 83 HC 73
218	HB 287	1101	798	HC 93 SC 86
219	SB 141	368	1093	SC 99 HC 86
220	HB 328	846 1011	141	HC 94 SC 96
221	HB 418	847 1012	129	HC 95 SC 90
222	HB 1590	1080	589	
223	SB 1024	620	995	
224	HB 706	904 1104	109 663	HC 123 SC 121
225	SB 1000	731	955 1085	SC 108 HC 110
226	SB 1158	232 454	903 1082	
227	SB 1443	234 705	898 1064	
228	SB 317	267 378	910 1080	
229	SB 379	676	936 1062	
230	SB 436	634	1218	
231	SB 565	487	1004	
232	SB 1145	677	1219	
233	HB 377	965	517	HC 13 SC 18
234	HB 464	990	154 659	HC 2 SC 2
235	HB 581	900 1092	151 687	HC 92 SC 42
236	HB 652	901 1024	223 645	HC 27 SC 35
237	HB 741	1079	470	HC 11 SC 8
238	HB 889	954	152 620	HC 4 SC 4
239	SB 320	8 461	1095	SC 112 HC 108
240	HB 444	1075	509	HC 121 SC 123
241	HB 1500	907 1040	265 642	HC 117 SC 119
242	SB 1154	268 437	828 1086	SC 44 HC 28
243	HB 1502	1041	377 669	
244	HB 1227	911 1045	433 635	HC 32 SC 54
245	SB 350	508	837 1053	SC 15 HC 18
246	SB 444	651	1191	
247	SB 456	462	853 1018	SC 57 HC 30
248	SB 492	669	849 1115	

<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
249	SB 522	656	1194	
250	SB 525	498	1195	
251	SB 533	298	859	
		446	1508	
252	SB 539	615	869	
			1128	
253	SB 545	501	985	SC 27
				HC 67
254	SB 619	720	1010	SC 60
				HC 43
255	SB 632	657	1196	
256	SB 727	509	1197	
257	SB 787	198	882	SC 24
		637	1103	HC 20
258	SB 808	125	867	SC 14
		594	1059	HC 7
259	SB 833	556	989	
260	SB 847	769	1041	SC 111
				HC 113
261	SB 956	425	1199	
262	SB 957	576	1013	SC 61
				HC 35
263	SB 968	160	834	
		453	1580	
264	SB 993	568	1040	SC 20
				HC 57
265	SB 994	569	839	
			1090	
266	SB 1749	465	1179	
267	HB 5	833	25	
		1127	711	
268	HB 62	893	540	
		1133		
269	HB 391	1117	78	
			707	
270	HB 1025	1089	63	HC 3
			703	SC 3
271	HB 1156	810	231	HC 9
		1094	775	SC 13
272	HB 1244	977	529	HC 77
				SC 78
273	HB 1270	1063	482	HC 83
				SC 91
274	HB 1525	1056	457	HC 104
			575	SC 105
275	HB 1530	982	535	HC 97
				SC 103
276	HB 1861	1053	539	HC 96
				SC 100
277	SB 24	666	1006	SC 29
				HC 36
278	SB 97	767	1028	SC 71
				HC 74
279	SB 241	685	1017	SC 22
				HC 19
280	SB 341	663	1000	SC 28
				HC 38
281	SB 389	413	990	SC 50

<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
282	SB 420	476	981	HC 64 SC 37
283	SB 431	562	1101	HC 65 SC 73 HC 91
284	SB 1201	775	1034	
285	SB 1278	654	986	SC 53 HC 68
286	SB 1284	492	1579	
287	SB 1395	650	983	SC 26 HC 37
288	SB 1399	744	1024	
289	SB 1431	167	863	
		400	1582	
290	SB 1435	173	721	
			1175	
291	SB 1500	130	941	
		583	1060	
292	SB 1627	14	883	
		392	1076	
293	HB 46	956	59	
			655	
294	HB 105	1447	474	
295	HB 132	1472	32	
			714	
296	HB 210	889	52	
		999	488	
297	HB 375	1061	155	
			610	
298	HB 408	1054	475	
299	HB 453	903	694	
		1028		
300	HB 498	1069	523	HC 47 SC 66
301	HB 516	1070	545	
302	HB 541	1082	469	
303	HB 574	1449	352	
			618	
304	HB 578	867	351	
		1020	630	
305	SB 255	783	1048	SC 56 HC 88
306	SB 398	84	908	SC 47
		712	1056	HC 100
307	SB 548	313	884	SC 81
		781	1126	HC 99
308	SB 1007	571	836	SC 52
			1051	HC 41
309	SB 1072	732	946	SC 74
			1065	HC 51
310	SB 1164	719	885	SC 93
			1123	HC 101
311	HB 307	1160	507	
312	HB 586	868	336	
		1021	770	
313	HB 592	863	72	
		1103	769	
314	HB 904	1442	557	



<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
315	HB 920	1444	549	
316	HB 921	1451	561	
317	HB 999	1111	282	
			633	
318	HB 1174	1161	592	
319	HB 1176	1084	587	
320	HB 1246	984	332	
			728	
321	HB 1251	1125	602	
322	HB 1252	1441	692	
323	HB 1331	880	68	
		1048	490	
324	HB 1519	814	280	
		1032	791	
325	HB 1583	1078	579	
326	HB 1688	919	590	
		1128		
327	HB 1710	1448	604	
328	HB 1795	861	276	
		1036	677	
329	HB 1796	1119	520	
330	HB 1889	818	499	
		1038		
331	SB 815	604	842	SC 62
			1008	HC 42
332	SB 1112	658	1309	
333	SB 1729	305	857	SC 16
		621	1052	HC 24
334	SB 1734	219	811	
		519	1511	
335	SB 1765	213	830	SC 9
		622	1083	HC 21
336	SB 1747	147	915	SC 94
		517	1087	HC 102
337	SB 1318	286	895	SC 38
		389	1077	HC 26
338	SB 5	85	825	SC 59
		700	954	HC 39
			1058	
339	SB 1751	253	912	
		580	1071	
340	HB 1738	952	461	
			583	
341	HB 598	874	318	
		1023	741	
342	HB 1150	819	182	
		1019	656	
343	SB 515	228	843	
		432	1096	
344	HB 1514	890	179	HC 12
		1096	676	SC 39
345	HB 26	886	185	
		994	675	
346	HB 14	865	9	
		991	672	
347	HB 410	848	49	HC 53
		925	173	SC 58
			763	

<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
348	SB 361	19 224 718	873 1122	SC 48 HC 63
349	SB 1525	64 608	980	SC 63 HC 44
350	HB 654	876 1025	581	HC 14 SC 19
351	HB 735	902 1026	225 683	
352	SB 1295	205 438	819 1581	
353	SB 1274	111 450	856 1084	
354	SB 776	289 383	820 1107	
355	HB 310	910 1087	3 752	HC 118 SC 114
356	HB 1000	1445	480	
357	HB 223	1086	598	
358	HB 251	946	510	
359	HB 849	1452	484	
360	HB 853	879 1126	478	
361	HB 1209	967	224 727	HC 15 SC 23
362	HB 428	1116	438 790	
363	HB 430	948	502	
364	HB 1041	1081	385 758	
365	HB 486	971	530	
366	HB 121	827 997	567	HC 82 SC 95
367	SB 242	797	1020	SC 79 HC 52
368	SB 471	272 514	949 1078	
369	SB 769	768	1031	SC 110 HC 111
370	SB 830	490	992	
371	SB 1083	733	920 1502	
372	SB 1518	284 630	914 1104	
373	HB 1536	920 1107	192 746	
374	HB 220	834 1090	584	
375	HB 49	899 1099	797	HC 115 SC 116
376	SB 1424	233 456	897 1135	
377	HB 445	1076	247 623	HC 122 SC 122
378	HB 1357	1118	603	
379	HB 1841	878 1037	439 647	HC 25 SC 41
380	SB 154	221	900	SC 45

<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
381	HB 42	698	1069	HC 87
		852	27	HC 120
		1100	787	SC 120
382	HB 750	802	145	HC 22
		1014	767	SC 40
383	HB 1421	916	204	
		1095	653	
384	HB 1924	803	360	
		1039	778	
Vetoed	SB 348	65	868	SC 82
		584	1120	HC 62
Vetoed	SB 349	573	1178	
Vetoed	SB 481	626	974	SC 36
				HC 70
Vetoed	SB 518	260	840	SC 51
		603	978	HC 66
Vetoed	SB 559	789	829	SC 12
			1114	HC 23
Vetoed	SB 583	274	818	
		434	1507	
Vetoed	SB 634	247	942	SC 107
		723	1131	HC 107
Vetoed	SB 767	772	1027	
Vetoed	SB 792	174	901	
		384	1073	
Vetoed	SB 1068	678	1044	SC 115
				HC 116
Vetoed	SB 1176	736	1182	
Vetoed	SB 1289	494	982	
Vetoed	SB 1325	794	1021	
Vetoed	SB 1367	320	939	SC 117
		439	1061	HC 114
Vetoed	SB 1388	742	1183	
Vetoed	SB 1472	780	1035	
Vetoed	SB 1723	317	847	
		394	1499	
Vetoed	SB 1752	473	815	
			1497	
Vetoed	SB 1757	204	1227	
		442		
Vetoed	HB 4	1129	17	HC 90
			460	SC 97
Vetoed	HB 131	1159	258	
			713	
Vetoed	HB 254	875	582	
		985		
Vetoed	HB 367	1334	585	
Vetoed	HB 371	1074	586	HC 31
				SC 75
Vetoed	HB 380	1060	220	
			720	
Vetoed	HB 421	1066	434	
			626	
Vetoed	HB 529	1439	87	
			723	
Vetoed	HB 537	1030	19	
			465	
Vetoed	HB 736	896	331	

<u>Act No.</u>	<u>Bill No.</u>	<u>Senate Committee Rept. No.</u>	<u>House Committee Rept. No.</u>	<u>Conference Committee Rept. No.</u>
Vetoed	HB 951	1027 826 1105	738 407 688	HC 81 SC 88
Vetoed	HB 1013	959	253 794	
Vetoed	HB 1336	1453	554	
Vetoed	HB 1726	1122	548	
Vetoed	HB 1907	1131	483	HC 80 SC 92
Const Amend	SB 107	760	1029	
Const Amend	SB 1139	515	1220	
Const Amend	HB 572	1440	551	
Const Amend	HB 1267	1067	481	

## TABLES SHOWING EFFECT OF ACTS

Thirteenth and Fourteenth State Legislatures  
Special Session 1986 and 1987 Regular Session

Key: Am = Amended  
N = New  
R = Repealed  
Ree = Reenacted

Ren = Renumbered  
\_\_\_\_\_ = Section number to be assigned  
in HRS Supplement  
Sp = Special Session 1986

### A. SECTIONS OF HAWAII REVISED STATUTES AFFECTED

Section No.	Effect	Act No.	Section No.	Effect	Act No.
<u>VOLUME 1</u>					
4E-1	Am	336	36-24	Am	337
5-_____	N	9	37-_____	N	136
6E-3	Am	330	37-91 to 94 (pt V)	N	Sp1
11-1	Am	232	37-91 to 94 (pt V)	Am	136
11-17 to 19, 21	Am	273	39-34	Am	283
11-42	Am	210	39B-_____	N	62
11-72	Am	209	39B-1, 2	Am	62
11-191	Am	369	40-85	Am	339
11-194, 196, 199, 200, 203, 204, 206, 209, 212, 213, 215, 216, 219, 220, 222 to 224, 227	Am	369	<u>VOLUME 2</u>		
12-21	Am	232	46-_____ (3 secs)	N	333
12-22	R	232	46-_____	N	335
15-_____	N	211	46-4	Am	109
24-1	Am	2			193
26-_____	N	338			283
26-1	Am	213	46-15.1	Am	80
26-4	Am	336	46-15.2	Am	80
		338	46-102 to 104	Am	248
26-14	Am	339	48-1 to 4, 6	Am	336
26-15	Am	45	53-6	Am	337
26-18	Am	336	53-7	Am	283
		337	53-17, 22	Am	337
26-35.5	Am	283	53-84	Am	283
26-52	Am	336	54-11	Am	283
		338	65-2	Am	339
26H-4	Am	339	70-28	Am	339
		57	76-16	Am	37
		63			213
		152	76-25	Am	94
		153	76-77	Am	371
		190	77-5, 10, 13	Am	283
		191	78-1	Am	295
		281	80-1	Am	212
		300	80-4	Am	283
27-22.5	Am	309	85-34	Am	31
29-14	Am	339	85-45	Am	283
			87-1, 4	Am	27
			87-4.5	Am	172
			87-6	Am	27



Section No.	Effect	Act No.	Section No.	Effect	Act No.
203-1 to 3	Am	336	235-55.6, 61, 71	Am	239
205-1	Am	336	235-110.5	R	40
205-2	Am	82	237-_____ (2 secs)	N	239
205-3.1, 4	Am	336	237-21	Am	239
205-5.1	Am	372	237-23	Am	39
		378	237-24	Am	7
205-5.2	Am	336			15
		378			39
		336			292
205-18	Am	336	237-25	Am	239
205A-1	Am	336	237-28	R	39
206E-3	Am	336	237-29	Am	337
		339	239-11	Am	20
		355	241-_____	N	239
206E-5	Am	355	241-1	Am	168
206E-6	Am	8	241-4	Am	39
		355	246-12	Am	336
206E-15	Am	337	249-5	Am	78
206E-32	Am	355	249-11	Am	317
206E-153	Am	138	261-_____	N	163
206J-4	Am	336	263-1, 5	Am	326
206M-2	Am	336	266-16	Am	302
208-2 to 9	Am	336	266-24	Am	364
209-1	Am	336	266-25	Am	361
209-16, 17	Am	337	267-_____	N	247
209-26, 27, 29, 31 to 34	Am	336	267-_____	N	324
210-1, 2, 4	Am	336	267-3, 4	Am	247
210-6	Am	243	267-6	Am	364
		336	267-12	Am	150
		336	275-9	R	268
210-7, 8	Am	336	279A-4	Am	336
211-1, 2, 4, 5	Am	336	279E-2	Am	336
C 211E (heading)	Am	242			
211E-1	Am	242			
211E-2	Am	242			
		336			
211E-3, 4	Am	336	281-_____	N	137
212-10	Am	336	281-3	Am	141
213-1, 2	Am	336	281-17	Am	223
214-4	Am	336	281-17.5	Am	252
219-4	Am	110	281-45	Am	223
221-1	Am	336	281-61	Am	256
226-2, 52	Am	336	281-91	Am	223
226-53	Am	336	281-101.5	Am	207
		337	281-107	Am	144
		339	286-26	Am	222
226-54 to 59	Am	336	286-41	Am	171
226-60	R	336	286-48	Am	51
226-61 to 63	Am, Ren (226-60 to 62)	336	286-50	Am	171
			286-52	Am	279
227-1, 2	Am	336	286-53	Am	319
231-52	Am	112	286-61	Am	171
235-_____ (3 secs)	N	239	286-107	Am	318
235-1	Am	239	286-151, 155, 156, 161, 162, 162.6	Am	33
235-2.3	Am	39			
		239	290-8	Am	77
		239	291-3.1 to 3.3	Am	33
235-2.4	Am	39	291-11.6	Am	266
235-7	Am	239	291C-95	Am	237
		239	291C-166	Am	48
235-8	R	239	C 294	R	347
235-9, 51 to 54	Am	239	294-2	Am	339
235-55.5	Am	339			

VOLUME 5









Section No.	Effect	Act No.
465-4, 6, 10, 11, 13, 15	Am	72
467-_____	N	95
467-9, 11	Am	283
467-16	Am	208
467-18	Am	283
467-19	Am	178
467-22	Am	208
467-30	Am	276
468E-6	Am	283
468K-_____ (2 secs)	N	106
468K-5	Am	106
471-2	Am	63
<u>VOLUME 9</u>		
476-29	Am	61
477E-2	Am	283
478-_____	N	206
480-1 to 3, 13, 14	Am	274
481B-_____	N	74
481B-3	Am	339
482-2, 3	Am	22
484-16	Am	283
485-2	Am	373
485-14	Am	283
486-1, 26.5	Am	261
486E-1, 2	Am	336
487-14	Am	69
489-_____	N	294
490:1-201	Am	283
490:4-213	Am	280
490:9-304, 402	Am	283
<u>VOLUME 10</u>		
501-171	Am	283
502-17	Am	303
506-1	Am	275
507-18	Am	151
510-26	Am	283
514A-_____	N	133
514A-14.5	Am	269
514A-47	Am	283
514A-82	Am	277
		298
514A-89	Am	283
514A-121 to 127 (pt VII)	Am	124
514E-6	Am	276
514E-10	Am	60
515-3	Am	365
		370
516-1, 6 to 8, 21, 23, 25, 26, 28 to 34, 40 to 45, 51, 68	Am	337
519-2, 3	Am	337
521-_____	N	125
521-44	Am	170
		282
521-71	Am	29
532-15	R	307

Section No.	Effect	Act No.
533-16	Am	283
551-21	Am	327
554A-5	Am	283
560:_____	N	307
560:1-201	Am	283
560:3-301, 302, 308, 414	Am	283
571-_____	N	376
571-2	Am	283
		316
571-22	Am	182
571-48	Am	314
		338
		339
571-52, 52.2	Am	161
571-62, 63	Am	339
571-84	Am	47
571D-1	Am	283
		338
		339
572-5	Am	98
572-22	Am	194
C 573	R	46
573-1	Ren	46
	(572-25)	
573-3 to 5	Am, Ren	46
	(572-26 to 28)	
573-8	Am, Ren	46
	(572-29)	
573-8	Am	283
576-25, 30	Am	339
576D-7	Am	305
576D-8	Am	339
576D-10	Am	323
578-2, 8 to 10	Am	339
578-13	Am	278
578-15	Am	339
581-3, 12	Am	339
582-_____	N	129
584-4	Am	100
584-6	Am	339
584-7	Am	197
586-_____ (3 secs)	N	315
586-1	Am	359
586-3	Am	315
		359
586-4 to 6	Am	315
587-2	Am	339
<u>VOLUME 11</u>		
601-_____	N	Sp2
601-33	Am	338
601-51	Am	338
607-_____	N	Sp2
607-14.5	Am	Sp2
612-_____	N	366
612-6	Am	366
612-10	R	366
612-11 to 18, 20, 22 to 24	Am	366

Section No.	Effect	Act No.	Section No.	Effect	Act No.
621-9	Am	85	708-800	Am	268
622-52, 56	Am	283	708-801	Am	175
634-36	Am	283	708-831	Am	176
641-13	Am	84	709-906	Am	360
657-_____	N	Sp2	710-_____ (4 secs)	N	130
657-7.3	Am	Sp2	710-1000	Am	130
662-15	Am	192	710-1016.5	R	130
663-_____ (6 secs)	N	Sp2	710-1077	Am	176
663-_____	N	38	711-1100	Am	176
663-14	Am	50	711-1109.3	Am	230
669-2	Am	283	712-1213	Am	176
671-1	Am	283	712-1221, 1222	Am	83
671-2	R	Sp2	712-1240, 1242	Am	176
671-11	Am	283	712-1249.5, 1253, 1255	Am	176
<u>VOLUME 12</u>			802-5	Am	227
701-107, 108	Am	181	802-10	R	283
704-404, 411, 414	Am	145	802-11	Am	226
706-_____ (2 secs)	N	202	804-_____ (3 secs)	N	139
706-603	Am	145	804-1, 3, 4, 7.1 to 7.3	Am	139
706-604	Am	338	804-10	R	139
706-606.5, 610	Am	181	804-11	Am	139
706-624	Am	262	806-56	Am	283
706-640	Am	181	831-3.1	Am	339
706-656	Am	181	831-3.2	Am	322
		338	832-23	Am	338
706-660.1	Am	260	841-_____ (2 secs)	N	23
706-667, 670.5, 672	Am	338	841-14	Am	23
707-700, 702	Am	181	842-3	Am	140
707-711	Am	257	843-1	Am	338
707-730 to 732	Am	181	846-_____	N	146
707-741	Am	176	846-_____	N	380
708-_____ (5 secs)	N	268	846-1.5, 2, 30	Am	146
708-_____ (2 secs)	N	284			

**B. SESSION LAWS OF HAWAII AFFECTED**

S.L. No.	Effect	Act No.	S.L. No.	Effect	Act No.
Laws 1981			Act 237	Am	87
Act 112	R	36	Act 268	Am	228
Laws 1982			Act 300	Am	216
Act 62	Rec. Am	362	Laws 1986		
Laws 1983			Act 320, 321	Am	283
Act 167	Am	155	Act 328	Am	334
Act 192	Am	134	Act 342	Am	283
Act 301	Am	216	Act 345	Am	216
Laws 1984			Act 347	Am	43
Act 83	Rec. Am	362			216
Act 107	Am	124	Laws 1986 Sp		217
Act 145	Am	3	Act 1	Am	136
Act 285	Am	216	Act 2	Am	231
Laws 1985					
Act 207	Am	134			

**C. SECTIONS OF HAWAIIAN HOMES COMMISSION ACT 1920 AFFECTED**

Section No.	Effect	Act No.	Section No.	Effect	Act No.
213	Am	36	213	Am	36
210.5	R	36	214	Am	283

**D. STATE CONSTITUTION AFFECTED**

Section No.	Proposed Effect	Bill No.	Section No.	Proposed Effect	Bill No.
Art I, §13	Am	SB 107	Art III, §4	Am	HB 572
Art II, §1	Am	HB 1267 SB 1139	Art IV, §8	Am	HB 572

## GENERAL INDEX

	<b>ACT</b>
<b>ABUSE</b>	
Child abuse and neglect, prevention program .....	343
Child abuse reporting .....	204
Domestic abuse protective orders .....	315
	359
Elderly abuse or neglect, Aged Persons (this index)	
Family or household member, expungement of records .....	360
<b>ACCOUNTING AND GENERAL SERVICES</b>	
State surplus property revolving fund, established .....	123
<b>ADOPTION</b>	
Change of name .....	278
<b>ADVERTISING</b>	
Credit sales, annual percentage rate .....	61
<b>AGED PERSONS</b>	
Abuse or neglect	
elderly person defined .....	26
investigations .....	108
Housing, special amendments .....	354
<b>AGRICULTURE</b>	
Agricultural parks	
administration .....	91
development, exemption from legal requirements .....	111
Agriculture loan revolving fund, transfer of funds .....	110
Consumer commodity .....	261
Irrigation systems, transfer of functions to .....	306
Noxious weeds, control .....	92
Seed certification .....	164
Seed distribution revolving fund, remittances to	
general fund .....	86
Special assistant salary .....	18
Sugar research and development, appropriation .....	346
<b>AIRPORTS</b>	
Aircraft	
liability of owners .....	326
liens on .....	163
Helicopter facilities, environmental impact	
statements required .....	325
<b>AMERICA'S CUP</b>	
Appropriation .....	19
<b>ANIMALS</b>	
Dogs, lost tags .....	201
Pet care insurance, feasibility study .....	196
Trespassing, penalties .....	58
Wildlife, night hunting .....	156
<b>APPROPRIATIONS</b>	
AIDS research .....	265
America's Cup .....	19
Appointment of counsel for indigents .....	227
Capital Improvements (this index)	
Cemeteries, state owned .....	368
Child abuse and neglect prevention .....	343
Claims against the State .....	214
	215

Collective bargaining cost items .....	220
Commissioner of securities .....	373
Computerized fingerprint identification system .....	380
Corrections department .....	338
Criminal injuries compensation .....	296
Elderly housing revolving fund .....	354
Employees excluded from collective bargaining, adjustments .....	221
Family court appointed attorneys and guardians ad litem fees .....	376
Fire council .....	271
Foreign banks, promotion program .....	168
Foster care homes .....	334
General appropriations act .....	216
Guangdong Province special exchange program .....	352
Hawaii innovation development fund .....	242
Hawaii state coordinating council on deafness .....	289
Health insurance, proposed mandatory coverage assessment report .....	331
Honolulu symphony endowment fund .....	382
Interdepartmental cluster for services to children .....	342
Job evaluation study implementation .....	225
Judiciary appropriations act .....	375
Kalakaua Avenue safety and beautification project .....	383
Legislative branch .....	1
Motor vehicle insurance fund study .....	258
Narcotics enforcement office .....	235
Natural area reserve fund .....	351
New industry training program .....	241
Ocean resources tourism development task force .....	353
Office of Hawaiian affairs .....	218
One day or one trial jury service system .....	366
Planning reorganization .....	336
Program provisos .....	216
Public defender salary increase .....	226
Richards Street YWCA .....	384
Space technology industry feasibility study .....	244
Sugar research and development .....	346
Used oil regulation, personnel .....	236
Voluntary workfare program .....	345
Water code .....	45
Workers compensation state fund conference .....	381
<b>AQUACULTURE</b>	
Algal mass culture facility revolving fund .....	312
Aquaculture loan revolving fund, transfer of funds .....	110
Fish (this index)	
<b>ARMED FORCES</b>	
Adjutant general, commanding general .....	28
Employees retirement system, military service credit .....	116
Hawaii state guard act .....	35
National guard technicians, exemption from state tort liability act .....	192
Nonjudicial punishment, immunity of commanding officer .....	11
<b>ART</b>	
State buildings .....	183
<b>ATTORNEY GENERAL</b>	
Narcotics enforcement office, transfer .....	235
<b>ATTORNEYS</b>	
Court appointed counsel, fee schedule .....	227
Family court appointed attorneys and guardians ad litem, fee schedule .....	376
Public employment, exclusion from collective bargaining .....	184
<b>AUTOPSIES</b>	
Performance by pathologists, intercounty assistance .....	23
<b>BANKS</b>	
Automatic teller machines, exemption from concession bid requirement ....	101

Capital goods excise tax credit .....	239
Check hold policies .....	280
Commissioner of financial institutions, appeals from decisions of .....	6
Foreign, expanded operations authorized .....	168
Industrial loan companies, charges allowable .....	166
Liquidation .....	249
Loans and investments, reports of .....	103
Loans to personnel .....	104
Taxable mortgage securities program .....	205
<b>BARBERS</b>	
Licensing .....	246
<b>BEAUTY CULTURE</b>	
General amendments .....	154
<b>BLACK CORAL</b>	
State gem .....	9
<b>BLIND OR VISUALLY HANDICAPPED</b>	
Handicapped Persons (this index)	
<b>BOARDS AND COMMISSIONS</b>	
See specific board or commission	
<b>BOATS AND VESSELS</b>	
Enforcement officers, expanded powers .....	364
Fees and charges .....	150
	324
Thrill craft regulation .....	247
<b>BOILER AND ELEVATOR SAFETY</b>	
Use of certain documents in civil litigation prohibited .....	44
<b>BONDS</b>	
County housing programs .....	80
General obligation bonds, authorization .....	219
Housing authority, form and sale .....	328
Private activity bonds, allocation .....	62
Special Purpose Revenue Bonds (this index)	
<b>BOXING</b>	
Head injuries, automatic medical suspension .....	126
<b>BUDGET AND FINANCE</b>	
Deputy, civil service exemption .....	37
General fund expenditure ceiling	
permanency .....	136
provisions defining .....	Sp 1-86
<b>BUREAU OF CONVEYANCES</b>	
Recordation, metes and bounds description .....	303
<b>BUSINESS AND ECONOMIC DEVELOPMENT</b>	
Planning and Economic Development (this index)	
<b>CABLE TELEVISION</b>	
Television (this index)	
<b>CAPITAL IMPROVEMENTS</b>	
Bond authorization .....	219
General appropriations act .....	216
General improvements act of 1986, technical amendment .....	43
General improvements act of 1987 .....	217
Judiciary .....	375
<b>CAPITAL LOANS</b>	
Maximum loans .....	243
<b>CEMETERIES</b>	
State-owned .....	368
Sunset amendment .....	153



CHILDREN

Abuse (this index)	
Adoption, change of name .....	278
Family court, waiver of jurisdiction .....	182
Hepatitis B screening program .....	13
Interdepartmental cluster for services to children; established .....	342
Interstate compact on juveniles .....	129
Jurisdictional court orders .....	314
Juvenile offenders, notification to victims regarding disposition of .....	47
Legitimation .....	100
Paternity actions .....	197
Status offender, defined .....	316
Support	
enforcement .....	305
income assignment .....	161
interest bearing accounts .....	323
Tobacco sales prohibited to .....	293
Unearned income, taxation .....	239

CHIROPRACTORS

Physiotherapy modalities .....	68
--------------------------------	----

CLAIMS AGAINST THE STATE

Appropriations .....	214
Bond authorization .....	215
Bond authorization .....	219

COASTAL ZONE

Shores (this index)	
---------------------	--

COLLECTION AGENCIES

Generally .....	191
-----------------	-----

COLLECTIVE BARGAINING

Cost items .....	220
Excluded employees	
administrative secretaries .....	311
attorneys .....	184
salary adjustments .....	221

COMMERCE AND CONSUMER AFFAIRS

Business and nonprofit corporate documents, filing fees .....	22
Commissioner of securities .....	373
Health care professional boards .....	67
Sunset Law (this index)	
Time sharing, disapproval of plans .....	60
Travel agencies, administration of .....	106

COMMERCIAL FISHING

Fish (this index)	
-------------------	--

COMMUNITY DEVELOPMENT AUTHORITY

Cost allocation for public utilities .....	8
Kakaako district .....	355
Revenue bonds	
authorization, increase .....	228
treatment .....	138

COMPUTERS

Computer services, general excise tax exemption .....	239
Fingerprint identification system .....	380
Sales, unfair and deceptive practices .....	74

CONDOMINIUMS

Arbitration of disputes .....	124
Bylaws	
directors, conflict of interest .....	298
retroactive applicability of amendments .....	277
Defined as hotels, time sharing .....	276
Landlord and Tenant (this index)	

Parking stalls, exemptions from ownership requirements .....	269
Project documents, availability .....	133
<b>CONSERVATION</b>	
Enforcement officer	
expanded powers .....	364
volunteer boating.....	121
Irrigation, Molokai irrigation system advisory board .....	179
Native forests, flora, and fauna, conservation district boundaries .....	82
Natural area reserve system .....	350
<b>CONSTITUTION, STATE</b>	
Legislative candidates unopposed in general election .....	HB 572
Trial, civil cases, amount in controversy .....	SB 107
Voting	
age qualification .....	HB 1267
residency requirement .....	SB 1139
<b>CONSUMER PROTECTION</b>	
Computer sales; unfair and deceptive practices .....	74
Real estate transactions, disclosure of hazards and annoyances required .....	208
Restitution .....	69
<b>CONTRACTORS</b>	
Asbestos work, regulation .....	157
Licensing hearings .....	75
Public contract bonds .....	89
<b>CONTROLLED SUBSTANCES</b>	
Drugs (this index)	
<b>CORAL</b>	
Black coral, state gem.....	9
<b>CORPORATIONS</b>	
Filing fees for business and nonprofit corporate documents .....	22
General amendments .....	135
Limited equity housing cooperatives .....	105
<b>CORRECTIONS</b>	
Convicted persons, transfer to foreign countries under treaty .....	53
Department established .....	338
Facilities, restricted access .....	34
Juvenile parole and community services program .....	132
Medical or psychological care, retention of private care providers by prisoners .....	128
Offender family service center .....	251
Parole, home detention alternative .....	262
Prisoners, extradition costs .....	85
Substance abuse treatment .....	142
<b>COUNCIL ON REVENUES</b>	
Reestablished .....	136
<b>COUNTIES</b>	
Autopsies, intercounty assistance .....	23
Bonds for housing programs .....	80
Community health facilities, group living .....	193
Displaced persons, county code enforcement .....	10
Licensing, premises .....	162
Parks, transfers with State .....	333
Tax increment financing, high technology parks .....	335
Water plan .....	248
Zoning (this index)	45
<b>COURTS</b>	
Judiciary (this index)	
<b>CREDIT CARDS</b>	
Rates and charges, disclosure .....	206

CREDIT SALES	
Advertising, annual percentage rate .....	61
CRIMES AND CRIMINAL JUSTICE	
Arrest records, expungement .....	322
Bail, general amendments .....	139
Computerized fingerprints identification .....	380
Court appointed counsel, fees .....	227
Criminal cases, appeals .....	84
Criminal injuries compensation, appropriation .....	296
Data center, fees; board .....	146
Organized crime, penalties .....	140
Penal Code (this index)	
CULTURE AND THE ARTS	
Art in state buildings .....	183
Honolulu symphony endowment fund .....	382
DAM SAFETY ACT	
Enactment .....	199
DEAD BODIES	
Autopsies .....	23
DEFENSE	
Armed Forces (this index)	
DENTISTRY	
Hygienists .....	73
DEVELOPMENTAL DISABILITIES	
Handicapped Persons (this index)	
DISCRIMINATION	
Insurance practices, AIDS or HIV victims .....	259
Public accommodations, penalties .....	294
Real property transactions	
AIDS victim .....	370
blind or deaf persons .....	365
DISEASES	
AIDS or HIV victim	
discrimination in real property transactions .....	370
insurance practices .....	259
AIDS research, appropriations .....	265
Blood transmitted, reports to blood bank .....	264
Communicable diseases or conditions, reporting .....	265
Hepatitis B screening program .....	13
Immunodeficiency virus infection testing .....	308
Marriage license applicants, information on alcohol, drugs and AIDS .....	98
Sexually transmitted, confidentiality of record .....	238
DISPLACED PERSONS	
County code enforcement .....	10
	162
DOGS	
Animals (this index)	
DRIVERS	
License renewals .....	318
Motor Vehicles (this index)	
Traffic Violations (this index)	
DRUGS	
Advisory commission .....	198
Controlled substances	
general amendments .....	203
schedules, updating .....	113
General excise tax exemption .....	7
Misbranding .....	52
Narcotics enforcement office, transfer of office .....	235

Poisonous, county licensing requirements .....	17
Substance abuse treatment, correctional facilities .....	142
<b>ECONOMIC DEVELOPMENT</b>	
Planning and Economic Development (this index)	
<b>EDUCATION</b>	
Educational workers, assaults on .....	257
Immunization, notification for noncompliance .....	55
Interdepartmental cluster for services to children .....	342
Transcription of instructional material .....	358
<b>ELDERLY PERSONS</b>	
Aged Persons (this index)	
<b>ELECTIONS</b>	
Age qualification of voters .....	HB 1267
Ballots .....	232
Board of registration, compensation .....	210
Campaign contributions and spending .....	369
Federal write-in absentee ballot .....	211
Legislative candidates unopposed in general election, proposed amendment .....	HB 572
Precinct officials, qualifications .....	209
Voter registration .....	273
Voting, residency requirement, constitutional amendment .....	SB 1139
<b>EMBLEMS AND SYMBOLS</b>	
Black coral as state gem .....	9
<b>EMPLOYEES RETIREMENT SYSTEM</b>	
Actuarial valuations .....	291
Appointed cabinet level positions, class A membership .....	149
Clarifying amendments .....	117
Contributions, tax treatment .....	115
Firefighters, defined .....	299
Health fund, withholdings for retirees .....	54
Investments .....	114
Military service credit .....	116
Ordinary death benefit .....	299
Police officers, service-connected occupational disability .....	81
Reemployment .....	117
	118
<b>EMPLOYMENT</b>	
Dislocated workers, notification of plant termination, allowance .....	377
Job application processing fees prohibited .....	169
Minimum wage increase .....	224
New industry training .....	241
Occupational safety and health reports .....	42
Voluntary workfare program .....	345
Whistleblowers protection act .....	267
<b>EMPLOYMENT SECURITY</b>	
Maximum contribution rate .....	107
Special unemployment insurance administration fund .....	119
Wage base adjustment .....	240
<b>ENERGY</b>	
Geothermal resources	
contested cases, elimination of .....	378
subzones, direct use applications .....	372
<b>ENVIRONMENT</b>	
Cesspool pumping, certification .....	254
Environmental council, membership .....	233
Illness and injury, surveillance system .....	186
Impact statements	
acceptability .....	195
helicopter facilities .....	325
requirements .....	187

water lease requirement .....	367
Quality control office, rulemaking authority .....	185
Safe drinking water	
general amendments .....	165
state interim contamination action levels .....	297
Unlawful discharges into waters .....	361
Used oil regulation .....	236
<b>ETHICS COMMISSION</b>	
Operating expenses .....	1
<b>FAMILY COURT</b>	
Abuse (this index)	
Appointed counsel and guardians ad litem, fees .....	376
Child support	
enforcement .....	305
income assignment .....	161
interest bearing account .....	323
Domestic abuse protective orders .....	315
Interstate compact on juveniles .....	129
Judiciary (this index)	
Jurisdiction, waiver .....	182
Juvenile offenders, notification to victims regarding disposition of .....	47
Minors, court order regarding persons having custody .....	314
Parentage, paternity, written acknowledgment .....	100
Paternity actions, statute of limitation .....	197
Status offender, defined .....	316
<b>FINANCIAL INSTITUTIONS</b>	
Banks (this index)	
Commissioner, appeals of decisions from .....	6
<b>FIRE</b>	
Firefighters, defined .....	299
State fire council .....	271
<b>FIREARMS AND AMMUNITION</b>	
Felony offenses, mandatory sentences .....	260
<b>FISH</b>	
Baitfish taking .....	21
Disposal of gear, prohibited .....	66
Hilo harbor .....	131
Penalties .....	65
Sale of licenses by agents .....	93
<b>FOOD</b>	
Misbranded .....	52
Tax credit .....	239
<b>GENERAL EXCISE TAX</b>	
Capital goods excise tax credit .....	239
Exemptions	
deletion of certain activities .....	39
food stamp program .....	15
interstate or foreign commerce transportation .....	292
Hawaii housing authority projects .....	64
Prescription drugs and prosthetic devices, exemption .....	7
<b>GOVERNOR</b>	
Ocean resources tourism development task force .....	353
Special assistant for agriculture, salary .....	18
Special assistant for housing .....	337
State planning functions .....	336
<b>GRANTS</b>	
Appropriations .....	216
<b>GUARDIANSHIP</b>	
Family Court (this index)	
Property, small estates .....	327

**HANDICAPPED PERSONS**

Blind and deaf, discrimination in real property transactions .....	365
Developmental disabilities	
adult foster care .....	334
program and services for .....	341
Flotation devices, use in public swimming pools .....	363
Hawaii state coordinating council on deafness, establishment .....	289
Interdepartmental cluster for services to children; established .....	342
Transcription of instructional material .....	358

**HARBORS**

Boats and Vessels (this index)	
Enforcement officers, expanded powers .....	364
Navigable streams, private use of .....	302
Thrill craft regulation .....	247
Unlawful discharges, reporting .....	361
Volunteer boating officers, workers compensation benefits .....	121

**HAWAII HOUSING AUTHORITY**

Housing (this index)

**HAWAIIAN AFFAIRS**

Appropriations .....	218
Escheated kuleana lands .....	307

**HAWAIIAN HOME LANDS**

Repayment for improvements of terminated, canceled, or surrendered leases .....	36
Water rights .....	45

**HEALTH**

Asbestos work, regulation .....	157
Cesspool pumping, certification .....	254
Child abuse and neglect prevention programs .....	343
Community health facilities, county zoning .....	193
Controlled substances, Drugs (this index)	
Deafness, coordinating on .....	289
Developmentally disabled individuals, adult foster homes .....	334
Diseases transmittable by blood, reports to blood banks .....	264
Drugs (this index)	
Environment (this index)	
Health care professional boards .....	67
Hepatitis B screening program .....	13
Hospitals (this index)	
Immunization, school entry requirement .....	55
In vitro fertilization, insurance coverage .....	332
Interdepartmental cluster for services to children; established .....	342
Long term care insurance .....	253
Mandatory health insurance, assessment .....	331
Marriage license applicants, information on alcohol, drugs and AIDS .....	98
Mental Health (this index)	
Milk shelf-life and dating requirements repealed .....	12
Narcotics enforcement office, transfer of functions .....	235
Nursing home without walls program; extension .....	134
Occupational safety and health, reports .....	42
Planning and resources .....	270
Prescription drugs and prosthetic devices, general excise tax exemption .....	7
Safe drinking water .....	165
	297
Sexually transmitted diseases, records, confidentiality .....	238
Smoking in public places, restrictions .....	234
Smoking in the workplace .....	245

**HEALTH FUND**

Public Employment (this index)

**HISTORIC PRESERVATION**

Archaeological work, regulation of .....	330
------------------------------------------	-----

HONOLULU SYMPHONY	
Endowment fund .....	382
HORIZONTAL PROPERTY REGIMES	
Condominiums (this index)	
HOSPITALS	
Hospital administrators, civil service leave .....	309
Special Purpose Revenue Bonds (this index)	
Waimano training school and hospital programs and services for .....	341
HOUSING	
Bonds	
county programs .....	80
form and sale .....	328
Boundary amendments .....	79
Buy back requirements .....	99
Displaced persons, county code enforcement .....	10
	162
Elderly housing .....	354
General excise tax exemption .....	64
Housing finance and development corporation, establishment .....	337
Limited equity housing cooperatives .....	105
Lower income housing development .....	329
Mortgage subsidy bond allocation .....	62
	337
Opportunity allowance, interest rate .....	159
Rental assistance program .....	313
Rental housing revolving fund .....	24
Taxable mortgage securities .....	205
HUMAN SERVICES	
Department, establishment .....	339
Social Services and Housing (this index)	
INCOME TAX	
Conformance to Internal Revenue Code, general amendments .....	239
Credits, sale of dangerous items .....	40
Exemptions, adult blind broom shops deleted .....	39
INDUSTRIAL LOAN COMPANIES	
Capital requirements .....	96
Charges allowable, personal property and involuntary unemployment	
insurance .....	166
Powers in relation to general corporation law .....	155
INSURANCE	
Cease and desist orders, penalty .....	97
Credit life insurance, debtor ceiling removed .....	286
Discriminatory practices, AIDS or HIV victims .....	259
Group life insurance; benefits payable to employer .....	173
Health insurance, proposed mandatory coverage assessment report .....	331
In vitro fertilization coverage .....	332
Insurance code .....	347
	348
	349
	253
Long-term care, standards .....	
Medical malpractice policies by mutual or reciprocal insurers, exemption	
from rate reductions .....	231
Mortgage life insurance, requirements .....	275
Mortgage loans and contracts .....	255
Pet care, feasibility study .....	196
Premiums, waiver during total disability .....	250
Risk retention groups .....	180
Tort reform .....	Sp 2-86
Unfair practices and acts .....	320
INTEREST	
Credit card rates and charges, disclosure .....	206

<b>INTOXICATING LIQUOR</b>	
Federal licenses and stamps .....	144
Importation by manufacturers .....	141
Licenses	
fees .....	252
noise control .....	256
tax clearances .....	223
Liquor commissions, enforcement powers .....	223
Prohibitions involving minors .....	207
Promotion of excessive consumption prohibited .....	137
Traffic violations, moped operators .....	33
<b>INVENTIONS</b>	
Innovation development program .....	242
<b>JUDICIARY</b>	
Appropriations .....	375
Arbitration program .....	Sp 2-86
Bond authorization .....	219
Extradition, cost of .....	85
Family Court (this index)	
Interdepartmental cluster for services to children .....	342
One day or one trial jury system .....	366
Right to jury trial, constitutional amendment .....	SB 107
<b>JURIES</b>	
Judiciary (this index)	
<b>KAHANA VALLEY</b>	
Long term leases .....	5
<b>LABELING</b>	
Measurement Standards (this index)	
<b>LABOR AND INDUSTRIAL RELATIONS</b>	
Dislocated workers, notification of plant termination, allowance .....	377
Minimum wage increase .....	224
New industry training program .....	241
<b>LAND AND NATURAL RESOURCES</b>	
Aquaculture (this index)	
Archaeological work .....	330
Commission on water resource management, established within .....	45
Conservation and enforcement officers, expanded powers .....	364
Dam Safety Act, enactment .....	199
Deputy, civil service exemption .....	379
Escheated kuleana lands .....	307
Natural area reserve system .....	350
Natural area reserves fund, establishment .....	351
Ocean resources tourism development task force .....	353
Parks, transfers with counties .....	335
Public Lands (this index)	
<b>LAND USE</b>	
Conservation districts, native forests, flora, and fauna .....	82
<b>LANDLORD AND TENANT</b>	
Holdover tenants .....	29
Recovery of possession .....	125
Security deposits	
as final month's rent .....	170
return of .....	282
<b>LEGISLATIVE AUDITOR</b>	
Motor vehicle insurance fund study, appropriation .....	258
Operating expenses .....	1
Proposed mandatory health insurance coverage, assessment report .....	331
<b>LEGISLATIVE REFERENCE BUREAU</b>	
Operating expenses .....	1
State water code review commission, established within .....	45



<b>LEGISLATURE</b>	
Incidental expenses .....	2
Operating expenses .....	1
Unopposed candidates in general election .....	HB 572
<b>LIABILITY</b>	
Aircraft owners .....	326
Motor vehicles, transferor's liability .....	279
Tort reform .....	Sp 2-86
<b>LIBRARIES</b>	
State librarian, salary .....	56
<b>LIENS</b>	
Aircrafts .....	163
Motor vehicle repairs .....	151
<b>LIEUTENANT GOVERNOR</b>	
Employees, civil service status .....	213
<b>LIQUOR</b>	
Intoxicating Liquor (this index)	
<b>MARRIAGE</b>	
Contracts of married persons .....	194
Legal status of married persons .....	46
License applicants, information on alcohol, drugs, and AIDS .....	98
Premarital agreement act .....	321
<b>MASSAGE</b>	
General amendments .....	190
<b>MEASUREMENT STANDARDS</b>	
Agricultural products, misbranding of consumer commodities .....	261
<b>MEDICAL RECORDS</b>	
Diseases (this index)	
Mental Health (this index)	
Peer review, subpoena of report .....	67
<b>MEDICINE</b>	
Medical torts, ad damnum clause prohibited .....	38
Physicians and Surgeons (this index)	
Practice of pharmacy, defined .....	188
<b>MENTAL HEALTH</b>	
Confidentiality of records .....	148
Employment programs for the chronically mentally ill .....	340
Interdepartmental cluster for services to children .....	342
Patients' rights .....	158
Programs and services for .....	341
Sanity examiners, certified list .....	145
Service area board, membership .....	14
<b>MILK</b>	
Shelf-life and dating requirements repealed .....	12
<b>MILOLII-HOOPULO</b>	
Long term residential leases .....	362
<b>MOPEDS</b>	
Intoxicating liquor violations .....	33
<b>MORTGAGES</b>	
Priority of liens, mortgage insurance .....	275
<b>MOTOR VEHICLES</b>	
Derelict vehicles, defined .....	77
Emblems or tags, fraudulent use .....	317
Inspection, older vehicles .....	222
Liens for repairs .....	151
No-Fault Insurance (this index)	
Registration	
new vehicles by manufacturers or dealers .....	319

vehicles outside State or county .....	171
Repairs, crash parts .....	272
Salvaged vehicles, recertification requirements .....	51
Traffic Violations (this index)	
Transfer, bar to subsequent liability of transfer .....	279
Vehicle taxes, stored vehicles .....	78
<b>MUTUAL AND FRATERNAL BENEFIT SOCIETIES</b>	
In vitro fertilization coverage .....	332
<b>NAMES</b>	
Adoption, family name of adoptive minor .....	278
Children, legitimation .....	100
<b>NATIONAL GUARD</b>	
Armed Forces (this index)	
<b>NATUROPATHY</b>	
General amendments .....	281
<b>NO-FAULT INSURANCE</b>	
General revision .....	347
Insurance fund study, appropriation .....	258
Motorcycles and motor scooters, liability insurance .....	287
<b>NONPROFIT CORPORATIONS</b>	
Document filing fees .....	22
General amendments .....	135
<b>OATHS AND AFFIRMATIONS</b>	
Loyalty oath waivers .....	31
<b>OCCUPATIONAL SAFETY AND HEALTH</b>	
Reports .....	42
<b>OIL AND GAS</b>	
Used oil regulation .....	236
<b>OMBUDSMAN</b>	
Operating expenses .....	1
<b>OPTICIANS</b>	
General amendments .....	300
<b>OPTOMETRY</b>	
General amendments .....	152
Licensure .....	70
<b>OSTEOPATHY</b>	
Assistant, licensing .....	71
<b>PARKS</b>	
State resort camps and services .....	4
Transfer between State and counties .....	335
<b>PENAL CODE</b>	
Abuse of family and household members, records .....	360
Assault in the second degree, educational workers .....	257
Cable television and telecommunications fraud .....	268
Firearm felony offense, mandatory minimum sentences .....	260
Gambling offenses .....	83
General amendments .....	176
Imprisonment, time of release .....	181
Law enforcement officer, impersonating .....	202
Law enforcement officer, impersonating .....	130
Monetary laundering .....	284
Probation, home detention .....	262
Promoting dangerous drugs .....	356
Sanity examiners, appointment from list .....	145
Valuation of property .....	175
<b>PEST CONTROL</b>	
General amendments .....	143
Termite control contracts .....	102

<b>PESTICIDES</b>	
Regulation .....	310
Water contamination control .....	167
<b>PETROLEUM</b>	
Used oil regulation .....	236
<b>PHARMACY</b>	
Practice defined .....	188
<b>PHYSICAL THERAPY</b>	
Athletic trainers .....	59
Chiropractors, physiotherapy modalities .....	68
<b>PHYSICIANS AND SURGEONS</b>	
Health care professional boards .....	67
Licenses, grounds for disciplinary action .....	76
Medical malpractice insurance, rate reduction .....	231
Physicians assistants, licensing exceptions .....	147
Prisoners medical or psychological care, retention of private care providers .....	128
<b>PLANNING AND ECONOMIC DEVELOPMENT</b>	
America's Cup .....	19
Business and economic development, department renamed as .....	336
Capital loan program .....	243
Film production permits .....	357
Guangdong Province special exchange program .....	352
High technology parks, tax increment financing .....	248
Housing finance and development corporation, establishment .....	337
Innovation development program .....	242
Ocean resources tourism development task force .....	353
Permit application processing, consolidation .....	87
Reorganization .....	336
Services and products, fees for .....	122
Space technology industry feasibility study .....	244
<b>POLICE</b>	
Impersonating a law enforcement officer .....	130
Service-connected occupational disability retirement .....	81
<b>PRISONS AND PRISONERS</b>	
Corrections (this index)	
<b>PRIVATE DETECTIVES AND GUARDS</b>	
General amendments .....	57
<b>PROBATE CODE</b>	
Kuleana lands, escheat .....	307
<b>PROFESSIONAL CORPORATIONS</b>	
General amendments .....	135
<b>PSYCHOLOGY</b>	
Licensing .....	72
Licensure .....	285
Services under medicaid, general assistance .....	290
Workers compensation, inclusion of psychologists as physicians .....	374
<b>PUBLIC ASSISTANCE</b>	
Social Services and Housing (this index)	
<b>PUBLIC CONTRACTS</b>	
Art in state buildings .....	183
Bid requirements, exemptions .....	101
Bonding, rehabilitation facility waivers .....	229
Contractor's bonds .....	177
Public works, overtime pay .....	89
Traffic congestion consideration .....	288
Transcription of instructional materials .....	212
	358

<b>PUBLIC DEFENDER</b>	
Salary .....	226
<b>PUBLIC EMPLOYMENT</b>	
Civil service, hospital administrators .....	309
Civil service exemptions	
budget and finance deputy .....	37
housing assistance positions .....	371
land and natural resources deputy .....	379
lieutenant governor's office .....	213
Collective Bargaining (this index)	
Excluded managerial compensation plan .....	30
Group life insurance benefits, employer's contribution .....	32
Health fund	
benefits plan .....	27
contributions for certain retirees .....	172
withholding by retirement system .....	54
Hours of work, traffic congestion considerations .....	212
Pay equity adjustments .....	225
Reemployment list .....	94
Residency requirements .....	295
Smoking in the workplace .....	245
State librarian, salary .....	56
Whistleblowers protection act .....	267
<b>PUBLIC LANDS</b>	
Kahana Valley, long term leases .....	5
Lease withdrawal, compensation for permanent improvements .....	88
Milolii-Hoopuloa residents, residential leases .....	362
Water leases .....	367
<b>PUBLIC SERVICE COMPANY TAX</b>	
Contract carrier exemption .....	20
<b>PUBLIC UTILITIES</b>	
Community development authority, cost allocations .....	8
Special Purpose Revenue Bonds (this index)	
<b>PURCHASES OF SERVICE</b>	
Appropriations .....	216
<b>REAL ESTATE</b>	
Brokers and salesmen	
condominium hotel operators .....	276
license renewals .....	95
Disclosure of hazards and annoyances to buyers, lessees, and tenants .....	208
Recovery and education funds, investments .....	178
Recovery fund, subrogation .....	208
<b>REAL PROPERTY</b>	
Discrimination against	
blind and deaf persons .....	365
persons with AIDS or HIV .....	370
Housing (this index)	
Mortgage liens and insurance .....	275
Small estates, guardianship .....	327
Taxation (this index)	
<b>RESIDENCY</b>	
Public employment requirements .....	295
<b>RETIREMENT</b>	
Employees Retirement System (this index)	
<b>REVENUE BONDS</b>	
Community development authority	
increase issuance authorization .....	228
treatment of bonds .....	138
Transportation .....	216

<b>SCHOOLS</b>	
Education (this index)	
<b>SEAWEED</b>	
Algae mass culture facility revolving fund .....	312
<b>SECURITIES</b>	
Commissioner, appointment .....	373
Taxable mortgage securities .....	205
<b>SEEDS</b>	
Certification .....	164
<b>SHORES</b>	
Enforcement officers	
expanded powers .....	364
volunteers .....	121
<b>SMOKING</b>	
Public places .....	234
Workplace .....	245
<b>SOCIAL SERVICES AND HOUSING</b>	
Basic needs allowance, increase .....	25
Corrections (this index)	
Deafness, state coordinating council, establishment .....	289
Human services department, establishment .....	339
Interdepartmental cluster for services to children .....	342
Nursing home without walls; extension .....	134
Psychological services under medicaid, general assistance .....	290
Shelter allowance, increase, flat amount .....	344
Victim restitution from prisoner's earnings .....	127
Workfare program .....	345
<b>SPACE TECHNOLOGY INDUSTRY</b>	
Feasibility study, appropriation .....	244
<b>SPECIAL PURPOSE REVENUE BONDS</b>	
G.N. Wilcox Memorial Hospital .....	189
Honolii stream hydroelectric project .....	263
Island Power Company .....	304
Kamakani Ikaika, Inc. ....	3
Kapiolani health care system .....	200
<b>STATE PLANNING</b>	
Reorganization .....	336
<b>STATUTES</b>	
Hawaii Revised Statutes, technical amendments .....	283
<b>STREAMS</b>	
Navigable .....	302
Water code .....	45
<b>SUNSET LAW</b>	
Beauty culture .....	154
Cemetery and funeral trusts .....	153
Collection agencies and practices .....	191
Dispensing opticians .....	300
Massage .....	190
Naturopathy .....	281
Optometry .....	152
Private detectives and guards .....	57
Veterinary medicine .....	63
<b>SYMPHONY</b>	
Endowment fund .....	382
<b>TAXATION</b>	
General Excise Tax (this index)	
General income tax credit .....	41
Income Tax (this index)	

Liquor licenses, tax clearances .....	223
Public service company tax .....	20
Real property taxes, exemptions for fruit and nut orchards .....	49
Recovery of money owed to the State, intercept of tax refunds .....	112
Retirement system contributions, treatment .....	115
Tax reform, generally .....	239
Vehicle tax, disposal of stored vehicles license plates .....	78
<b>TELECOMMUNICATIONS</b>	
Revolving fund .....	90
Services, fraud .....	268
<b>TELEVISION</b>	
Cable systems	
fraud .....	268
general amendments .....	301
Film production permits .....	357
<b>TIME SHARING</b>	
Condominium projects, defined as hotels, when .....	276
Disapproval of plans .....	60
<b>TOBACCO</b>	
Sale to minors prohibited .....	293
Smoking in public places, restrictions .....	234
Smoking in workplace, regulation .....	245
<b>TORTS</b>	
Ad damnum clause prohibited .....	38
Joint tortfeasors, effect of release .....	50
State tort liability act, exemptions .....	192
Tort reform .....	Sp 2-86
<b>TRADE REGULATIONS</b>	
Insurance, unfair claim settlements .....	320
Public accommodations, discrimination, penalties .....	294
Restraint of trade, unfair and deceptive practices .....	274
<b>TRAFFIC VIOLATIONS</b>	
Intoxicating liquor violations, moped operators .....	33
School buses, stopping on highway .....	237
Seat belts, exemptions .....	266
Summons or citations, failure to appear .....	48
<b>TRANSPORTATION</b>	
Director, community development authority member .....	355
Harbors (this index)	
Revenue bonds .....	216
<b>TRAVEL AGENCIES</b>	
Administration of .....	106
<b>UNEMPLOYMENT</b>	
Employment Security (this index)	
<b>UNIFORM COMMERCIAL CODE</b>	
Banks, check hold policies .....	280
<b>UNIFORM PREMARITAL AGREEMENT ACT</b>	
Establishment .....	321
<b>UNIVERSITY OF HAWAII</b>	
Algae mass culture facility revolving fund .....	312
Loyalty oath waivers .....	31
Management authority .....	16
Scholarships, graduate students .....	174
<b>VETERINARY MEDICINE</b>	
Licensing, exceptions .....	63
<b>VICTIMS</b>	
Restitution from prisoner's earnings .....	127

<b>VITAL STATISTICS</b>	
Birth certificates, legitimation .....	100
<b>WAGES</b>	
Minimum .....	224
<b>WASTE</b>	
Asbestos .....	157
Environment (this index)	
<b>WATER</b>	
Dam Safety Act .....	199
Environment (this index)	
Irrigation systems, transfer of functions .....	306
Leases .....	367
Molokai irrigation system .....	45
	179
Pesticide contamination .....	167
Safe drinking water	
general amendments .....	165
state interim contamination action levels .....	297
State water code .....	45
<b>WESTERN LEGISLATIVE CONFERENCE</b>	
Appropriation .....	1
<b>WHISTLEBLOWERS PROTECTION ACT</b>	
Employers, retaliation against employees .....	267
<b>WILDLIFE</b>	
Hunting licenses	
sale of .....	160
technical amendments .....	230
<b>WITNESSES</b>	
Extradition, cost of .....	85
<b>WORKERS COMPENSATION</b>	
Medical fee schedule .....	120
Psychologists, inclusion as physicians .....	374
State fund, conference .....	381
Volunteer boating and conservation and resources enforcement officers .....	121
<b>ZONING</b>	
Displaced persons .....	10
Violations, civil penalties .....	109

For more information  
contact us at 1-800-858-1444